Journal of the House

State of Indiana

115th General Assembly *First Regular Session*

Fiftieth Meeting Day **Thursday Afternoon** **April 26, 2007**

The House convened at 2:00 p.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker read a prayer for wisdom and service (printed January 9, 2007).

The Pledge of Allegiance to the Flag was led by Representative P. Eric Turner.

The Speaker ordered the roll of the House to be called:

Austin
Avery
Bardon
Battles
Behning
Bell
Bischoff
Borders
Borror
Bosma
C. Brown
T. Brown
Buck
Buell
Burton
Candelaria Reardon
Cheatham
Cheney
Cherry
Cochran
Crawford
Crooks
Crouch
Davis
Day
Dembowski
Denbo
Dermody
Dickinson
Dobis
Dodge
Duncan
Dvorak
Eberhart
Elrod
Espich
Foley
Friend
Frizzell
Fry
GiaQuinta
Goodin
Grubb
Gutwein
E. Harris
T. Harris
Herrell
Hinkle
Hoy
Kersey
Klinker
Knollman
Koch
Kuzman
L. Lawson
Lehe
Leonard
Lutz
Mays
McClain
Micon
Moses
Murphy
Neese
Niezgodski
Noe
Orentlicher
Oxley
Pelath
Pflum
Pierce
Pond
Porter
Reske
Richardson
Ripley
Robertson
Ruppel
Saunders
M. Smith
V. Smith
Soliday
Stemler
Stevenson
Stilwell
Stutzman
Summers
Thomas
Thompson
Tincher
Torr
Turner
Tyler
Ulmer
VanHaaften
Walorski
Welch
Whetstone
Wolkins
Mr. Speaker

Roll Call 584: 100 present. The Speaker announced a quorum in attendance.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Friday, April 27, 2007, at 10:00 a.m.

HERRELL

Motion prevailed.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that pursuant to Rule 81(c) of the Standing Rules and Orders of the Senate, President Pro Tempore David Long has made the following change in conferees appointments to Engrossed House Bill 1115:

Conferee: Steele replacing Jackman

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the President Pro Tempore of the Senate has appointed the following Senators a conference committee to confer on Engrossed House Bill 1312:

Conferees: C. Lawson and Lanane
Advisors: Deig and Walker

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the President Pro Tempore of the Senate has appointed the following Senators a conference committee to confer on Engrossed House Bill 1461:

Conferees: Ford and Broden
Advisors: Zakas and Tallian

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has concurred in the House amendments to Engrossed Senate Bills 286 and 506.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that pursuant to Rule 81(b) of the Standing Rules and Orders of the Senate, President Pro Tempore David Long has made the following change in conferees appointments to Engrossed Senate Bill 339:

Advisor: Boots

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 81 and 82 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE GOVERNOR

Mr. Speaker and Members of the House: On April 25, 2007, I signed into law House Enrolled Acts 1017, 1042, 1085, 1210, 1305, 1373, 1382, 1480, 1653, and 1742.

MITCHELL E. DANIELS, JR.
Governor

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1018, 1291, 1376, 1428, 1633, and 1778 and Senate Enrolled Acts 190, 207, 271, 403, 411, 434, 489, 490, 526, 529, 551, 557, and 562 on April 25.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1067–1; filed April 25, 2007, at 11:32 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1067 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Page 4, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 3. IC 5-10.2-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 9. Sudan Divestment

Sec. 1. As used in this chapter, "active business operations" means all business operations that are not inactive business operations.

Sec. 2. As used in this chapter, "board" refers to the following:

(1) The board of trustees of the Indiana state teachers' retirement fund.

(2) The board of trustees of the public employees' retirement fund.

Sec. 3. As used in this chapter, "business operations" means engaging in any commerce in any form in Sudan.

Sec. 4. (a) As used in this chapter, "company" means any of the following:

(1) A sole proprietorship.

(2) An organization.

(3) An association.

(4) A corporation.

(5) A partnership.

(6) A joint venture.

(7) A limited partnership.

(8) A limited liability partnership.

(9) A limited liability company.

(10) A business association.

(b) The term includes all wholly owned subsidiaries, majority owned subsidiaries, parent companies, and affiliates of such entities or business associations that exist for profit making purposes.

Sec. 5. For purposes of this chapter, a company is "complicit in the Darfur genocide" if the company took any actions during the preceding twenty (20) month period that directly support or promote the genocidal campaign in the Darfur region of Sudan, including any of the following:

(1) Preventing Darfur's victimized population from communicating with each other.

(2) Encouraging Sudanese citizens to speak out against an internationally approved security force in Darfur.

(3) Actively working to deny, cover up, or alter the record on human rights abuses in Darfur.

Sec. 6. As used in this chapter, "cost of divestment" means the sum of the following:

(1) The costs associated with the sale, redemption, divestment, or withdrawal of an investment.

(2) The costs associated with the acquisition and maintenance of a replacement investment.

(3) A cost not described in subdivision (1) or (2) that is incurred by the fund in connection with a divestment transaction.

Sec. 7. As used in this chapter, "direct holdings" means all securities of a company held directly by the fund or in an account in which the fund owns all shares or interests.

Sec. 8. As used in this chapter, "fund" refers to the following:

(1) The Indiana state teachers' retirement fund.

(2) The public employees' retirement fund.

Sec. 9. (a) As used in this chapter, "government of Sudan" refers to the government in Khartoum, Sudan, that is led by the National Congress Party (formally known as the National Islamic Front) or any successor government formed on or after October 13, 2006, including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan.

(b) The term does not include the regional government of southern Sudan.

Sec. 10. As used in this chapter, "inactive business operations" means the mere continued holding or renewal of rights to property previously operated to generate revenues but not presently deployed for such purpose.

Sec. 11. As used in this chapter, "indirect holdings" means all securities of a company:

(1) held in an account or a fund; and

(2) managed by one (1) or more persons not employed by the fund, in which the fund owns shares or interests together with other investors not subject to this chapter.

Sec. 12. As used in this chapter, "marginalized populations of Sudan" includes the following:

(1) The part of the population in the Darfur region that has been genocidally victimized.

(2) The part of the population of southern Sudan victimized by Sudan's north-south civil war.

(3) The Beja, Rashidiya, and other similarly underserved groups of eastern Sudan.

(4) The Nubian and other similarly underserved groups in Sudan's Abyei, southern Blue Nile, and Nuba mountain regions.

(5) The Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.

Sec. 13. (a) As used in this chapter, "military equipment" means weapons, arms, or military defense supplies provided directly or indirectly to any force actively participating in the conflict in Sudan. The term includes any equipment that readily may be used for military purposes, including:

(1) radar systems; or

(2) military grade transport vehicles.

(b) The term does not include weapons, arms, or military defense supplies sold to peacekeeping forces that may be

dispatched to Sudan by the United Nations or the African Union.

Sec. 14. (a) As used in this chapter, "mineral extraction activities" means the exploration, extraction, processing, transporting, or wholesale sale of elemental minerals or associated metals or oxides, including:

(1) gold;
(2) copper;
(3) chromium;
(4) chromite;
(5) diamonds;
(6) iron;
(7) iron ore;
(8) silver;
(9) tungsten;
(10) uranium; and
(11) zinc.

(b) The term includes the facilitation of mineral extraction activities, including the provision of supplies or services in support of mineral extraction activities.

Sec. 15. (a) As used in this chapter, "oil related activities" includes:

(1) the export of oil;
(2) the extraction of or production of oil;
(3) the exploration for oil;
(4) the ownership of rights to oil blocks;
(5) the refining or processing of oil;
(6) the transportation of oil;
(7) the selling or trading of oil; or
(8) the construction or maintenance of a pipeline, a refinery, or another oil field infrastructure.

(b) The term includes the facilitation of oil related activities, including the provision of supplies or services in support of oil related activities. The mere retail sale of gasoline and related consumer products is not considered an oil related activity.

Sec. 16. As used in this chapter, "power production activities" means any business operation that involves a project commissioned by the National Electricity Corporation of Sudan or other similar entity of the government of Sudan whose purpose is to facilitate power generation and delivery. The term includes the following:

(1) Establishing power generating plants or hydroelectric dams.
(2) Selling or installing components for power generating plants or hydroelectric dams.
(3) Providing service contracts related to the installation or maintenance of power generating plants or hydroelectric dams.
(4) Facilitating power production activities, including providing supplies or services in support of power production activities.

Sec. 17. As used in this chapter, "research firm" means a reputable, neutral third party research firm not controlled by the fund.

Sec. 18. (a) As used in this chapter, "scrutinized company" means a company that meets any of the following criteria:

(1) Both of the following apply to the company:
(A) The company has business operations that involve contracts with or the provision of supplies or services to:
(i) the government of Sudan;
(ii) companies in which the government of Sudan has any direct or indirect equity share;
(iii) consortiums or projects commissioned by the government of Sudan; or
(iv) companies involved in consortiums or projects commissioned by the government of Sudan.
(B) Either:
(i) more than ten percent (10%) of the company's revenues or assets linked to Sudan involve oil related activities or mineral extraction activities, and less than seventy-five percent (75%) of the company's oil related or mineral extracting revenues or assets linked to Sudan involve contracts with the regional government of southern Sudan or a project or consortium created exclusively by the regional government, and the company has failed to take substantial action; or
(ii) more than ten percent (10%) of the company's revenues or assets linked to Sudan involve power production activities and less than seventy-five percent (75%) of the company's power production activities include projects that are intended to provide power or electricity to the marginalized populations of Sudan, and the company has failed to take substantial action.

(2) The company is complicit in the Darfur genocide.

(3) The company supplies military equipment within Sudan, unless the company implements safeguards to prevent the use of the equipment by forces actively participating in armed conflict in Sudan. This subdivision does not apply to companies involved in the sale of military equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

(b) The term does not include a social development company that is not complicit in the Darfur genocide.

Sec. 19. As used in this chapter, "social development company" means a company whose primary purpose in Sudan is to provide humanitarian goods or services, including:

(1) medicine or medical equipment;
(2) agricultural supplies or infrastructure;
(3) educational opportunities;
(4) journalism related activities;
(5) information or informational materials;
(6) spiritual related activities;
(7) services that are clerical or reporting in nature;
(8) food;
(9) clothing; or
(10) general consumer goods that are unrelated to oil related activities, mineral extraction activities, or power production activities.

Sec. 20. As used in this chapter, "substantial action" means:

(1) adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one (1) year and to refrain from any new business operations;
(2) undertaking significant humanitarian efforts on behalf of one (1) or more marginalized populations of Sudan; or
(3) materially improving conditions for the genocidally victimized population in Darfur through engagement with the government of Sudan.

Sec. 21. (a) Not later than March 30, 2008, each board shall make a good faith effort to identify all scrutinized companies in which the fund administered by the board has direct or indirect holdings.

(b) In carrying out its responsibilities under subsection (a), and at the board's discretion, each board may use existing research or contract with a research firm.

(c) A board or a research firm with which the board contracts under subsection (b) may take any of the following actions:

(1) Review publicly available information regarding companies with business operations in Sudan.

(2) Contact other institutional investors that invest in companies with business operations in Sudan.

(3) Contact asset managers contracted by the fund that invest in companies with business operations in Sudan.

(d) Not later than the first meeting of the board after March 30, 2008, each board shall compile the names of all scrutinized companies into a scrutinized company list and indicate whether each scrutinized company has active or inactive business operations in Sudan.

(e) Each board shall update its scrutinized company list at least on an annual basis based on evolving information from sources described in subsections (b) and (c).

Sec. 22. After a board creates or updates the scrutinized company list under section 21 of this chapter, the board shall immediately identify the companies on the scrutinized company list in which the fund administered by the board has direct or indirect holdings.

Sec. 23. (a) Each fund shall send to each scrutinized company:

(1) that is identified under section 22 of this chapter as one in which the fund has direct or indirect holdings; and

(2) that has only inactive business operations;

a written notice concerning the contents of this chapter and a statement encouraging the company to continue to refrain from initiating active business operations in Sudan until the company is able to avoid scrutinized business operations altogether.

(b) The fund shall continue to correspond on a semiannual basis with scrutinized companies in which the fund has direct or indirect holdings and that have only inactive business operations.

Sec. 24. (a) Each fund shall send to each scrutinized company:

(1) that is identified under section 22 of this chapter as one in which the fund has direct or indirect holdings; and

(2) that has active business operations;

a written notice concerning the contents of this chapter and a statement indicating that the the fund's holdings in the company may become subject to divestment by the fund.

(b) A notice sent under this section shall:

(1) offer the company the opportunity to clarify the company's Sudan related activities; and

(2) encourage the company, within ninety (90) days after the date of the written notice, to either:

(A) cease its scrutinized business operations; or

(B) convert the company's operations to inactive business operations in order to avoid divestment by the fund of the fund's holdings in the company.

Sec. 25. (a) If, within ninety (90) days after a fund's first engagement with a company under section 24 of this chapter, the company ceases scrutinized business operations, the company shall be removed from the fund's scrutinized company list and the provisions of sections 26, 27, 28, and 29 of this chapter shall cease to apply to the company unless the company resumes scrutinized business operations.

(b) If, within ninety (90) days after a fund first engages with a company under section 24 of this chapter, the company converts its scrutinized active business operations to inactive business operations, the company shall be subject to the provisions of section 23 of this chapter.

Sec. 26. (a) Except as provided in sections 28 and 29 of this chapter, if, after ninety (90) days after a fund's first engagement with a company under section 24 of this chapter, the company continues to have scrutinized active business operations, the fund shall sell, redeem, divest, or withdraw all publicly traded securities of the company that are held by the fund, as follows:

(1) At least fifty percent (50%) of such assets shall be removed from the fund's assets under management within nine (9) months after the company's appearance on the scrutinized company list.

(2) One hundred percent (100%) of such assets shall be removed from the fund's assets under management within fifteen (15) months after the company's appearance on the scrutinized company list.

(b) If a company that ceased scrutinized active business operations following engagement under section 24 of this chapter resumes scrutinized active business operations, and only while the company continues to have active business operations, the company shall immediately be placed back on the scrutinized company list. A fund that has holdings in the company shall sell, redeem, divest, or withdraw all publicly traded securities of the company as provided in subsection (a) based on the date the company is placed back on the scrutinized company list. The fund shall send a written notice to the company indicating that the company was placed back on the scrutinized company list and is subject to divestment.

(c) A board is not required to divest the board's holdings in a passively managed commingled fund that includes a scrutinized company with active business operations in Sudan if the estimated cost of divestment of the commingled fund is greater than ten percent (10%) of the total value of the scrutinized companies with active business operations held in the commingled fund. The board shall include any commingled fund that includes a scrutinized company that is exempted from divestment under this subsection in the board's report submitted to the legislative council under section 31 of this chapter.

Sec. 27. Except as provided in sections 28 and 29 of this chapter, a fund shall not acquire securities of companies on the scrutinized company list that have active business operations.

Sec. 28. If the government of the United States affirmatively declares any company on the scrutinized company list with active business operations in Sudan to be excluded from any federal sanctions relating to Sudan, the company is not subject to divestment or investment prohibition under this chapter.

Sec. 29. Notwithstanding any provision to the contrary, sections 26 and 27 of this chapter do not apply to indirect holdings in actively managed investment funds. However, if a fund has indirect holdings in actively managed investment funds containing the securities of scrutinized companies with active business operations, the fund shall submit letters to the managers of the investment funds requesting that the managers remove the scrutinized companies with active business operations from the fund or create a similar actively managed fund with indirect holdings without scrutinized companies with active business operations. If the manager creates a similar fund, the fund shall replace all applicable investments with investments in the similar fund in a period consistent with prudent investing standards.

Sec. 30. This chapter does not apply to private equity funds.

Sec. 31. (a) On or before November 1, 2007, and thereafter as directed by the legislative council, the board shall submit a report in an electronic format under IC 5-14-6 to the legislative council for distribution to the members of the general assembly.

(b) The report must include at least the following information, as of the date of the report:

(1) A copy of the scrutinized company list.

(2) A summary of correspondence with companies engaged by the fund under sections 23 and 24 of this chapter.

(3) All investments sold, redeemed, divested, or withdrawn in compliance with section 26 of this chapter.

(4) All commingled funds that are exempted from divestment under section 26 of this chapter.

(5) All prohibited investments under section 27 of this chapter.

(6) Any progress made under section 29 of this chapter.

Sec. 32. This chapter expires on the earliest of the following:

(1) Twelve (12) months after the date the government of Sudan halts the genocide in Darfur as determined by the Congress of the United States and the United States Department of State.

(2) The date the United States revokes its current sanctions against the government of Sudan.

(3) The date Congress or the President of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this chapter interferes with the conduct of foreign policy for the United States.

(4) The date Congress or the President of the United States declares that the government of Sudan:

(A) has honored its commitments to cease attacks on civilians;

(B) demobilizes and demilitarizes the Janjaweed and associated militias;

(C) grants free and unfettered access for deliveries of humanitarian assistance; and

(D) allows for the safe and voluntary return of refugees and international displaced persons.

Sec. 33. With respect to actions taken in compliance with this chapter, including all good faith determinations regarding companies on the scrutinized company list, the fund shall be exempt from any conflicting statutory or common law obligations, including any obligations with respect to choice of asset managers, investment funds, or investments for fund securities portfolios.

Sec. 34. (a) Notwithstanding any provision to the contrary, the fund shall be permitted to cease divesting and to reinvest in certain scrutinized companies on the scrutinized company list with active business operations in Sudan if evidence shows that the value for all assets under management by the fund becomes equal to or less than ninety-nine and five-tenths percent (99.5%) of the value of all assets under management by the fund, including the companies divested under section 26 of this chapter.

(b) As provided by this section, any cessation of divestment or reinvestment shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in subsection (a).

(c) For any cessation of divestment, reinvestment, and subsequent ongoing investment authorized by this section, the fund shall submit a report in an electronic format under IC 5-14-6 to the legislative council for distribution to the members of the general assembly in advance of any initial reinvestment. The report shall be updated annually thereafter as applicable, setting forth the reasons and justifications for the decision to cease divestment, reinvest, or remain invested with companies with scrutinized active business operations. This section does not apply to companies that have ceased to have scrutinized business operations.

Sec. 35. (a) Both:

(1) the state and its officers, agents, and employees; and

(2) the fund and its board members, executive director, officers, agents, and employees;

are immune from civil liability for any act or omission related to the removal of an asset from the fund under this chapter.

(b) In addition to the immunity provided under subsection (a), both:

(1) the officers, agents, and employees of the state; and

(2) the board members, executive director, officers, agents, and employees of the fund;

are entitled to indemnification from the fund for all losses, costs, and expenses, including reasonable attorney's fees, associated with defending against any claim or suit relating to an act authorized under this chapter.

Sec. 36. The provisions of this chapter are severable in the manner provided in IC 1-1-1-8(b).

SECTION 4. IC 34-30-2-11.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11.3. IC 5-10.2-9-33 (Concerning the state and certain public pension funds for divestment of fund assets authorized by law).**

SECTION 5. [EFFECTIVE JULY 1, 2007] **(a) This SECTION applies to IC 5-10.2-9, as added by this act.**

(b) The definitions in IC 5-10.2 apply throughout this SECTION.

(c) The general assembly finds the following:

(1) Mandatory divestment by the funds of the funds' holdings in certain companies is a measure that should be employed only under extraordinary circumstances.

(2) The Congress and President of the United States have declared that genocide is occurring in the Darfur region of Sudan.

(3) The Sudan crisis represents the first time the government of the United States has labeled ongoing atrocities a genocide.

(4) The situation in Sudan is unique and constitutes the extraordinary circumstances necessary for mandatory divestment by the funds of the funds' holdings in scrutinized companies with active business operations in Sudan.".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1067 as reprinted April 6, 2007.)

CROOKS	KRUSE
NOE	BRODEN
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 192–1; filed April 25, 2007, at 11:48 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 192 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-2-8-1, AS AMENDED BY SEA 526-2007, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) ~~As used~~ **The following definitions apply** in this section:

(1) "Abuse" means:

(A) conduct that causes bodily injury (as defined in IC 35-41-1-4) or damage to property; or

(B) a threat of conduct that would cause bodily injury (as defined in IC 35-41-1-4) or damage to property.

(2) "County law enforcement agency" includes:

(A) postsecondary educational institution police officers appointed under IC 21-17-5 or IC 21-39-4; **and**

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each county a county law enforcement continuing education program. The program is

funded by amounts appropriated under IC 33-37-8-6.

(c) A county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the county law enforcement continuing education fund.

(d) Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

(e) Money in excess of one hundred dollars ($100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

(f) To make a claim under IC 33-37-8-6, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(g) A law enforcement agency shall submit a claim for fees under this section in the same county fiscal year in which the fees are collected under IC 33-37-4.

(h) A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
(3) Techniques for handling incidents of abuse that:
(A) minimize the likelihood of injury to the law enforcement officer; and
(B) promote the safety of a victim.
(4) Information about the nature and extent of abuse.
(5) Information about the legal rights of and remedies available to victims of abuse.
(6) How to document and collect evidence in an abuse case.
(7) The legal consequences of abuse.
(8) The impact on children of law enforcement intervention in abuse cases.
(9) Services and facilities available to victims of abuse and abusers.
(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
(11) Policies concerning arrest or release of suspects in abuse cases.
(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
(13) Landlord-tenant concerns in abuse cases.
(14) The taking of an abused child into protective custody.
(15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.
(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
(17) Response to a sudden, unexpected infant death.

(i) A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required by this section and section 2(f) of this chapter.

SECTION 2. IC 5-2-8-2, AS AMENDED BY SEA 526-2007, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) ~~As used~~ **The following definitions apply** in this section:

(1) "Abuse" has the meaning set forth in section 1(a) of this chapter.

(2) "City or town law enforcement agency" includes:

(A) postsecondary educational institution police officers appointed under IC 21-17-5 or IC 21-39-4; **and**

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each city and in each town with a city or town court a local law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-4 and fees collected under IC 9-29-4-2, IC 9-29-11-1, and IC 35-47-2-3.

(c) A city or town law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the local law enforcement continuing education fund.

(d) Distribution of money in a local law enforcement continuing education fund shall be made to a city or town law enforcement agency without the necessity of first obtaining an appropriation from the fiscal body of the city or town.

(e) To make a claim under IC 33-37-8-4, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(f) A city or town law enforcement agency shall provide to each law enforcement officer employed by the city or town law enforcement agency continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
(3) Techniques for handling incidents of abuse that:
(A) minimize the likelihood of injury to the law enforcement officer; and
(B) promote the safety of a victim.
(4) Information about the nature and extent of abuse.
(5) Information about the legal rights of and remedies available to victims of abuse.
(6) How to document and collect evidence in an abuse case.
(7) The legal consequences of abuse.
(8) The impact on children of law enforcement intervention in abuse cases.
(9) Services and facilities available to victims of abuse and abusers.
(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
(11) Policies concerning arrest or release of suspects in abuse cases.
(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
(13) Landlord-tenant concerns in abuse cases.
(14) The taking of an abused child into protective custody.
(15) Assessment of a situation in which the child may be seriously endangered if the child is left in the child's home.
(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
(17) Response to a sudden, unexpected infant death.

(g) A city or town law enforcement agency may enter into an agreement with other county, city, or town law enforcement agencies to provide the continuing education required by this section and section 1(h) of this chapter.

SECTION 3. IC 5-2-10.1-12, AS AMENDED BY P.L.1-2006, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) Each school within a school corporation shall establish a safe school committee. The committee may be a subcommittee of the

committee that develops the strategic and continuous school improvement and achievement plan under IC 20-31-5.

(b) The department of education and the school corporation's school safety specialist shall provide materials to assist a safe school committee in developing a plan for the school that addresses the following issues:

(1) Unsafe conditions, crime prevention, school violence, bullying, and other issues that prevent the maintenance of a safe school.

(2) Professional development needs for faculty and staff to implement methods that decrease problems identified under subdivision (1).

(3) Methods to encourage:

(A) involvement by the community and students;

(B) development of relationships between students and school faculty and staff; and

(C) use of problem solving teams.

(c) As a part of the plan developed under subsection (b), each safe school committee shall provide a copy of the floor plans for each building located on the school's property that clearly indicates each exit, the interior rooms and hallways, and the location of any hazardous materials located in the building to the law enforcement agency and the fire department that have jurisdiction over the school.

SECTION 4. IC 5-10-10-4, AS AMENDED BY SEA 526-2007, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

(1) A state police officer.

(2) A county sheriff.

(3) A county police officer.

(4) A correctional officer.

(5) An excise police officer.

(6) A county police reserve officer.

(7) A city police reserve officer.

(8) A conservation enforcement officer.

(9) A town marshal.

(10) A deputy town marshal.

(11) A probation officer.

(12) A state educational institution police officer appointed under IC 21-39-4.

(13) A police officer whose employer purchases coverage under section 4.5 of this chapter.

(14) An emergency medical services provider (as defined in IC 16-41-10-1) who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

(15) A firefighter who is employed by the fire department of a state university.

(16) A firefighter whose employer purchases coverage under section 4.5 of this chapter.

(17) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(18) A gaming agent of the Indiana gaming commission.

(19) A person who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) appointed as a special deputy under IC 36-8-10-10.6.

(20) A school corporation police officer appointed under IC 20-26-16.

SECTION 5. IC 20-25-4-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 22. The governing body of a school city may establish a police department under IC 20-26-16.**

SECTION 6. IC 20-26-7-27.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 27.5. (a) Notwithstanding any other law, if:**

(1) as a result of an inspection of a school building under IC 22-14-2-11 that is not an inspection to determine compliance with a legal standard for accreditation, the division of fire and building safety of the department of homeland security determines that there is a violation of a fire safety law at the school building;

(2) the fire safety law that the division determines has been violated at the school building incorporates a standard that:

(A) was not a fire safety law at the time of the construction or renovation of the school building and is being applied retroactively to the building by an employee of the division of fire and building safety; or

(B) previously was not applicable to the building; and

(3) the violation is not a condition that creates an immediate safety hazard and is monitored under daily maintenance and supervision;

the school corporation shall abate the violation before the earlier of one (1) year after the violation determination or six (6) months after the start of the school corporation's next budget year following the violation determination.

(b) The expense of the abatement may be paid out of funds appropriated for such purposes in the budget year following a violation determination under subsection (a).

SECTION 7. IC 20-26-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 16. School Corporation Police Departments

Sec. 1. This chapter applies to a school corporation, including a school city (as defined in IC 20-25-2-12).

Sec. 2. The governing body of a school corporation may establish a school corporation police department under this chapter.

Sec. 3. The governing body of a school corporation may do the following for the school corporation police department:

(1) Appoint school corporation police officers.

(2) Prescribe the duties and direct the conduct of school corporation police officers.

(3) Prescribe distinctive uniforms.

(4) Provide emergency vehicles.

Sec. 4. An individual appointed as a school corporation police officer must successfully complete at least:

(1) the pre-basic training course established under IC 5-2-1-9(f); and

(2) the minimum basic training and educational requirements adopted by the law enforcement training board under IC 5-2-1-9 as necessary for employment as a law enforcement officer.

Sec. 5. (a) Notwithstanding section 4 of this chapter and IC 5-2-1-9, an individual appointed as a school corporation police officer before July 1, 2007, must complete, not later than July 1, 2010, at least:

(1) the pre-basic training course established under IC 5-2-1-9(f); and

(2) the minimum basic training and educational requirements adopted by the law enforcement training board under IC 5-2-1-9 as necessary for employment as a law enforcement officer.

(b) As set forth in IC 5-2-1-9, an individual appointed as a school corporation police officer may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the school corporation police officer successfully completes a pre-basic training course under IC 5-2-1-9(f).

Sec. 6. (a) A school corporation police officer appointed under this chapter:

(1) is a law enforcement officer (as defined in IC 5-2-1-2(1));

(2) must take an appropriate oath of office in a form and manner prescribed by the governing body;

(3) serves at the governing body's pleasure; and

(4) performs the duties that the governing body assigns.

(b) School corporation police officers appointed under this chapter have general police powers, including the power to arrest, without process, all persons who within their view commit any offense. They have the same common law and statutory powers, privileges, and immunities as sheriffs and constables, except that they are empowered to serve civil process only to the extent authorized by the employing governing body; however, any powers may be expressly forbidden them by the governing body employing them. In addition to any other powers or duties, such police officers shall enforce and assist the educators and administrators of their school corporation in the enforcement of the rules and regulations of the school corporation, and assist and cooperate with other law enforcement agencies and officers.

(c) Such police officers may exercise the powers granted under this section only upon any property owned, leased, or occupied by the school corporation, including the streets passing through and adjacent to the property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency where the property is located, dependent upon the jurisdiction involved.

Sec. 7. A school corporation police department established before July 1, 2007, shall be considered, after June 30, 2007, a school corporation police department established under this chapter.

SECTION 8. IC 20-34-3-20, AS ADDED BY P.L.1-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) The governing body of a school corporation shall require each school in the governing body's jurisdiction to conduct periodic fire drills during the school year in compliance with rules adopted under IC 4-22-2 by the state board.

(b) Each school and attendance center shall conduct at least:

(1) one (1) tornado preparedness drill; and

(2) one (1) manmade occurrence disaster drill;

during each semester.

~~(b)~~ **(c)** The governing body of a school corporation shall require each principal to file a certified statement that ~~fire~~ **all** drills have been conducted as required under this section.

SECTION 9. [EFFECTIVE JULY 1, 2007] **(a) An individual appointed as a school corporation police officer before January 1, 2007, must begin the training and education required under IC 20-26-16-5, as added by this act, not later than January 1, 2008. However, an individual who is unable to begin the training and education not later than January 1, 2008, due to the existence of a waiting list for the training and education must begin the training and education as soon as possible after January 1, 2008.**

(b) An individual appointed as a school corporation police officer after December 31, 2006, and before July 1, 2007, must begin the training and education required under IC 20-26-16-5, as added by this act, not later than one (1) year after the individual's appointment. However, an individual who is unable to begin the training and education within one (1) year after the individual's appointment due to the existence of a waiting list for the training and education must begin the training and education as soon as possible after the expiration of the one (1) year period.

(c) Notwithstanding IC 20-26-16-5, as added by this act, an individual appointed as a school corporation police officer before July 1, 2007, who is unable to complete the training and education required under IC 20-26-16-5, as added by this act, not later than July 1, 2010, due to the existence of a waiting list for the training and education, must complete the training and education as soon as possible after July 1, 2010.

(d) This SECTION expires January 1, 2011.

(Reference is to ESB 192 as reprinted March 7, 2007.)

LUBBERS	PORTER
SIPES	BEHNING
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 157–1; filed April 25, 2007, at 2:45 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 157 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert:

SECTION 1. IC 4-23-7.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) The board, with the advice of the advisory council, shall establish operating standards and rules for libraries ~~and library services authorities~~ eligible to receive funds, either federal or state, under the provisions of any program for which the Indiana state library is the administrator. The Indiana state library shall monitor libraries ~~and library services authorities~~ eligible to receive funds or receiving funds to ascertain whether or not the standards and rules are being met.

(b) The board, with the advice of the council on library automation established under IC 4-23-7-30, shall establish library automation standards for libraries. ~~and library service authorities.~~ The Indiana state library shall monitor compliance with the standards.

SECTION 2. IC 4-23-7.1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) The Indiana state library annually shall collect data from all libraries ~~and library services authorities~~ in Indiana.

(b) Each public officer who:

(1) has in ~~his~~ **the officer's** charge or custody;

(2) is capable of supplying; or

(3) is required to collect and compile;

information required by the library and historical department or by the state library shall supply the information promptly at the request of the department or the state library.

SECTION 3. IC 36-12-3-16, AS ADDED BY P.L.1-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) The library board may adopt a resolution allowing money to be disbursed under this section for lawful library purposes, **including advertising and promoting the programs and services of the library.**

(b) With the prior written approval of the library board and if the library board has adopted a resolution under subsection (a), claim payments may be made in advance of library board allowance for any of the following types of expenses:

(1) Property or services purchased or leased from the federal government or the federal government's agencies and the state, the state's agencies, or the state's political subdivisions.

(2) Dues, subscriptions, and publications.

(3) License or permit fees.
(4) Insurance premiums.
(5) Utility payments or connection charges.
(6) Federal grant programs where:
(A) advance funding is not prohibited; and
(B) the contracting party posts sufficient security to cover the amount advanced.
(7) Grants of state funds authorized by statute.
(8) Maintenance and service agreements.
(9) Legal retainer fees.
(10) Conference fees.
(11) Expenses related to the educational or professional development of an individual employed by the library board, including:
(A) inservice training;
(B) attending seminars or other special courses of instruction; and
(C) tuition reimbursement;
if the library board determines that the expenditures under this subdivision directly benefit the library.
(12) Leases or rental agreements.
(13) Bond or coupon payments.
(14) Payroll costs.
(15) State, federal, or county taxes.
(16) Expenses that must be paid because of emergency circumstances.
(17) Expenses incurred to advertise and promote the programs and services of the library.
~~(17)~~ **(18)** Other expenses described in a library board resolution.

Each payment of expenses lawfully incurred for library purposes must be supported by a fully itemized invoice or other documentation. The library director must certify to the library board before payment that each claim for payment is true and correct. The certification must be on a form prescribed by the state board of accounts. The library board shall review and allow the claim at the library board's first regular or special meeting following the payment of a claim under this section.

(c) Purchases of books, magazines, pamphlets, films, filmstrips, microforms, microfilms, slides, transparencies, phonodiscs, phonotapes, models, art reproductions, and all other forms of library and audiovisual materials are exempt from the restrictions imposed by IC 5-22.

(d) The purchase of library automation systems must meet the standards established by the Indiana library and historical board under IC 4-23-7.1-11(b).

SECTION 4. IC 36-12-6-3, AS ADDED BY P.L.1-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. ~~(a)~~ The county contractual library board has all the powers and duties of other library boards under IC 36-12-3. ~~except the power to issue bonds under IC 36-12-3-9.~~

~~(b) The county contractual library may not lease under IC 36-12-10.~~

SECTION 5. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 4-23-7.1-30; IC 4-23-7.1-31.

(Reference is to ESB 157 as reprinted March 28, 2007.)

GARD	AUSTIN
DEIG	RICHARDSON
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1457–1; filed April 25, 2007, at 4:55p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1457 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-18-2-160.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 160.5. "Health care entity", for purposes of IC 16-41-42, has the meaning set forth in IC 16-41-42-1.**

SECTION 2. IC 16-38-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. ~~(a) During the year 2006, a committee of the general assembly shall review the need to continue the registry. The committee shall submit its recommendations in an electronic format under IC 5-14-6 to the general assembly before December 31, 2006.~~

~~(b)~~ The registry is abolished July 1, ~~2007.~~ **2017.**

SECTION 3. IC 16-41-42 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 42. Registration of Out-of-State Mobile Health Care Entities

Sec. 1. As used in this chapter, "health care entity" means an entity that:

(1) is registered or licensed as a health care entity under the laws of another state, a foreign country, or a province in a foreign country; and

(2) provides health care services, including the performance of health care tests, in a mobile facility or temporary location for a short period of time.

Sec. 2. The state department shall maintain a registry of health care entities that apply for and meet the registration requirements under this chapter.

Sec. 3. The registry must include the information required under section 5(6) of this chapter for each registered health care entity and the date that the health care entity registered with the state department under this chapter.

Sec. 4. The state department shall issue a certificate of registration to a health care entity that applies for registration and meets the requirements of this chapter.

Sec. 5. A health care entity applying for registration under this chapter shall disclose the following:

(1) The types of health care services that the health care entity will provide in Indiana.

(2) The names of any employees who are currently in good standing licensed, certified, or registered in a health care profession in:

(A) Indiana; or

(B) any other state;

and a copy of the employee's license, certification, or registration.

(3) Any health care services that are to be provided under a contract between the health care entity and a person that is licensed, certified, or registered in Indiana to provide health care services.

(4) The types of:

(A) health care services;

(B) health care tests; and

(C) equipment;

that the health care entity will perform or use.

(5) The manner in which test results and recommendations for health care based on the results are disclosed to the patient.

(6) The health care entity's name, address, and telephone number and the name of any company that is affiliated with the health care entity.

Sec. 6. A registered health care entity shall display the entity's certificate of registration in a conspicuous place in

sight of a consumer of the health care entity.

Sec. 7. A certificate of registration expires one (1) calendar year after its issuance.

Sec. 8. A health care entity may not provide services in Indiana until the health care entity is registered under this chapter with the state department.

Sec. 9. Registration of a health care entity under this chapter does not exempt:

(1) a health care professional from the licensure, certification, and registration requirements of IC 25; or

(2) a health care service from the regulation requirements of IC 16 or IC 25.

Sec. 10. The state department shall adopt rules under IC 4-22-2 necessary to implement this chapter, including rules specifying registration renewal procedures.

SECTION 4. IC 25-1-7-1, AS AMENDED BY SEA 506-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects, landscape architects, and registered interior designers (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15-9).

(10) State board of registration for professional engineers (IC 25-31-1-3).

(11) Indiana state board of health facility administrators (IC 25-19-1).

(12) Medical licensing board of Indiana (IC 25-22.5-2).

(13) Indiana state board of nursing (IC 25-23-1).

(14) Indiana optometry board (IC 25-24).

(15) Indiana board of pharmacy (IC 25-26).

(16) Indiana plumbing commission (IC 25-28.5-1-3).

(17) Board of podiatric medicine (IC 25-29-2-1).

(18) Board of environmental health specialists (IC 25-32-1).

(19) State psychology board (IC 25-33).

(20) Speech-language pathology and audiology board (IC 25-35.6-2).

(21) Indiana real estate commission (IC 25-34.1-2).

(22) Indiana board of veterinary medical examiners (IC 15-5-1.1).

(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(24) Respiratory care committee (IC 25-34.5).

(25) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(26) Occupational therapy committee (IC 25-23.5).

(27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(29) State board of registration for land surveyors (IC 25-21.5-2-1).

(30) Physician assistant committee (IC 25-27.5).

(31) Indiana athletic trainers board (IC 25-5.1-2-1).

(32) Indiana dietitians certification board (IC 25-14.5-2-1).

(33) Indiana hypnotist committee (IC 25-20.5-1-7).

(34) Indiana physical therapy committee (IC 25-27).

(35) Manufactured home installer licensing board (IC 25-23.7).

(36) Home inspectors licensing board (IC 25-20.2-3-1).

(37) State department of health.

~~(37)~~ **(38)** Any other occupational or professional agency created after June 30, 1981.

SECTION 5. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "commission" refers to the prenatal substance abuse commission established by subsection (b).**

(b) The prenatal substance abuse commission is established to develop and recommend a coordinated plan to improve early intervention and treatment for pregnant women who abuse alcohol or drugs or use tobacco.

(c) The commission consists of the following members:

(1) The state health commissioner or the commissioner's designee.

(2) The director of the division of mental health and addiction or the director's designee.

(3) The director of the office of Medicaid policy and planning or the director's designee.

(4) The director of the department of child services or the director's designee.

(5) One (1) physician specializing in addiction treatment of pregnant women.

(6) One (1) physician specializing in the care of pregnant women.

(7) One (1) social worker certified in the treatment of alcohol, tobacco, and other drug abuse.

(8) One (1) woman who has received treatment for alcohol, tobacco, or other drug abuse during pregnancy.

(9) One (1) advocate recommended by the March of Dimes, Indiana Chapter.

(10) One (1) prosecuting attorney or a deputy prosecuting attorney who practices in a drug court established under IC 12-23-14.5.

(11) One (1) judge of a drug court established under IC 12-23-14.5.

(12) Two (2) members of the house of representatives. The members appointed under this subdivision may not be members of the same political party.

(13) Two (2) members of the senate. The members appointed under this subdivision may not be members of the same political party.

(14) An advanced practice nurse who has a collaborative agreement with a physician who specializes in addiction treatment for pregnant women or the care of pregnant women.

The speaker of the house of representatives shall appoint the members under subdivisions (5), (7), (9), (10), and (12) not later than August 15, 2007. The president pro tempore of the senate shall appoint the members under subdivisions (6), (8), (11), (13), and (14) not later than August 15, 2007. Vacancies shall be filled by the appointing authority for the remainder of the unexpired term.

(d) A majority of the members of the commission constitutes a quorum.

(e) The state department of health shall provide staff and administrative support for the commission.

(f) The state health commissioner or the commissioner's designee shall convene the first meeting of the commission before October 15, 2007. The commission shall elect a member of the commission to serve as chairperson of the commission. The commission shall meet at the call of the chairperson and shall meet as often as necessary to carry out the purpose of this SECTION. However, the commission shall meet at least quarterly.

(g) Members of the commission are not entitled to a salary per diem or reimbursement of expenses for service on the commission.

(h) The affirmative votes of a majority of the commission's members are required for the commission to take action on any measure.

(i) The commission shall submit reports to the governor and the legislative council as follows:

(1) Not later than August 15, 2008, an interim report that contains any interim findings and recommendations of the commission.

(2) Not later than August 15, 2009, a final report that contains the findings and recommendations of the commission and an implementation plan to improve early intervention and treatment for pregnant women who abuse alcohol or drugs or use tobacco.

The reports required under this subsection must be submitted in an electronic format under IC 5-14-6.

(j) This SECTION expires December 31, 2009.

SECTION 6. **An emergency is declared for this act.**

(Reference is to EHB 1457 as reprinted March 23, 2007.)

KLINKER	C. LAWSON
THOMPSON	ROGERS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 220–1; filed April 25, 2007, at 4:57 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 220 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 4, delete lines 3 through 10.

Page 4, delete lines 37 through 38.

Renumber all SECTIONS consecutively.

(Reference is to ESB 220 as reprinted April 6, 2007.)

KRUSE	GIA QUINTA
DEIG	STUTZMAN
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 329–1; filed April 25, 2007, at 4:58 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 329 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-31-6-11, AS AMENDED BY P.L.145-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-32(h), the commission shall send to the person who is the subject of the order a notice that does the following:

(1) States that the person is delinquent and is subject to an order placing the person on probationary status.

(2) Explains that unless the person contacts the bureau and:

(A) pays the person's child support arrearage in full;

(B) ~~requests the activation of an income withholding order under IC 31-16-15-2 and~~ establishes a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;** or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the commission shall place the person on probationary status with respect to any license issued to the person under this chapter.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and** ~~(C) request the activation of an income withholding order under IC 31-16-15-2; and~~

~~(D)~~ **(C)** request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business days after the commission receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(b) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-34(c), the commission shall send to the person who is the subject of the order a notice that states the following:

(1) That a license issued to the person under this chapter has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the commission receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(2) That if the commission is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the

arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the commission shall suspend the person's license.

(c) If a person whose license has been placed on probationary status fails to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the notice required under subsection (b) is mailed, the commission shall suspend the person's license.

(d) The commission may not reinstate a license placed on probation or suspended under this section until the commission receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

SECTION 2. IC 4-33-8.5-3, AS AMENDED BY P.L.145-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-32(h), the commission shall send to the person who is the subject of the order a notice that does the following:

(1) States that the person is delinquent and is subject to an order placing the person on probationary status.

(2) Explains that unless the person contacts the bureau and:

(A) pays the person's child support arrearage in full;

(B) ~~requests the activation of an income withholding order under IC 31-16-15-2 and~~ establishes a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;** or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the commission shall place the person on probationary status with respect to any license issued to the person under this chapter.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and**

~~(C) request the activation of an income withholding order under IC 31-16-15-2; and~~

~~(D)~~ **(C)** request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business days after the commission receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(b) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-34(c), the commission shall send to the person who is the subject of the order a notice that states the following:

(1) That a license issued to the person under this article has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the commission receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(2) That if the commission is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the commission shall suspend the person's license.

(c) If a person whose license has been placed on probationary status fails to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the notice required under subsection (b) is mailed, the commission shall suspend the person's license.

(d) The commission may not reinstate a license placed on probation or suspended under this section until the commission receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

SECTION 3. IC 6-8.1-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) **Except as provided in subsection (n),** the department shall establish, administer, and make available a centralized debt collection program for use by state agencies to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by state agencies. The department's collection facilities shall be available for use by other state agencies only when resources are available to the department.

(b) The commissioner shall prescribe the appropriate form and manner in which collection information is to be submitted to the department.

(c) The debt must be delinquent and not subject to litigation, claim, appeal, or review under the appropriate remedies of a state agency.

(d) The department has the authority to collect for the state or claimant agency (as defined in IC 6-8.1-9.5-1) delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or claimant agency that has a formal agreement with the department for central debt collection.

(e) The formal agreement must provide that the information provided to the department be sufficient to establish the obligation in court and to render the agreement as a legal judgment on behalf of the state. After transferring a file for collection to the department for collection, the claimant agency shall terminate all collection procedures and be available to provide assistance to the department. Upon receipt of a file for

collection, the department shall comply with all applicable state and federal laws governing collection of the debt.

(f) The department may use a claimant agency's statutory authority to collect the claimant agency's delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to the claimant agency.

(g) The department's right to credit against taxes due may not be impaired by any right granted the department or other state agency under this section.

(h) The department of state revenue may charge the claimant agency a fee not to exceed fifteen percent (15%) of any funds the department collects for a claimant agency. Notwithstanding any law concerning delinquent accounts, charges, fees, loans, taxes, or other indebtedness, the fifteen percent (15%) fee shall be added to the amount due to the state or claimant agency when the collection is made.

(i) Fees collected under subsection (h) shall be retained by the department after the debt is collected for the claimant agency and are appropriated to the department for use by the department in administering this section.

(j) The department shall transfer any funds collected from a debtor to the claimant agency within thirty (30) days after the end of the month in which the funds were collected.

(k) When a claimant agency requests collection by the department, the claimant agency shall provide the department with:

(1) the full name;

(2) the Social Security number or federal identification number, or both;

(3) the last known mailing address; and

(4) additional information that the department may request; concerning the debtor.

(l) The department shall establish a minimum amount that the department will attempt to collect for the claimant agency.

(m) The commissioner shall report, not later than March 1 for the previous calendar year, to the governor, the budget director, and the legislative council concerning the implementation of the centralized debt collection program, the number of debts, the dollar amounts of debts collected, and an estimate of the future costs and benefits that may be associated with the collection program. A report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(n) The department may not assess a fee to a state agency or a custodial parent for seeking a setoff to a state or federal income tax refund for past due child support.

SECTION 4. IC 6-8.1-9.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. The department of revenue may charge the claimant agency a fee of fifteen percent (15%) of any funds it sets off under this chapter as a collection fee for its services. The department must bill the claimant agency in order to collect this fee. **However, the department may not assess a fee to a state agency or custodial parent for seeking a setoff to a state or federal income tax refund for past due child support.**

SECTION 5. IC 9-25-6-20, AS AMENDED BY P.L.145-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) If the bureau is advised by the Title IV-D agency that the obligor (as defined in IC 31-25-4-4) either requested a hearing under IC 31-25-4-33 and failed to appear or appeared and was found to be delinquent, the bureau shall promptly mail a notice to the obligor stating the following:

(1) That the obligor's driving privileges are suspended, beginning twenty (20) business days after the date the notice is mailed, and that the suspension will terminate after the bureau receives a notice from the Title IV-D agency that the obligor has:

(A) paid the obligor's child support arrearage in full; or

(B) established a payment plan with the Title IV-D agency to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(2) That the obligor may be granted a restricted driving permit under IC 9-24-15-6.7 if the obligor can prove that public transportation is unavailable for travel by the obligor:

(A) to and from the obligor's regular place of employment;

(B) in the course of the obligor's regular employment;

(C) to and from the obligor's place of worship; or

(D) to participate in parenting time with the petitioner's children consistent with a court order granting parenting time.

(b) The bureau may not reinstate a driving license or permit suspended under this section until the bureau receives a notice from the Title IV-D agency that the obligor has:

(1) paid the obligor's child support arrearage in full; or

(2) established a payment plan with the Title IV-D agency to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(c) Unless an obligor whose driving license or permit is suspended under this section has been issued a restricted driving permit under IC 9-24-15 as a result of a suspension under this section, an obligor who operates a motor vehicle in violation of the section commits a Class A infraction.

SECTION 6. IC 14-11-3-4, AS AMENDED BY P.L.145-2006, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Upon receiving an order from the bureau under IC 31-25-4-32(j), the director shall send to the person who is the subject of the order a notice that does the following:

(1) States that the person is delinquent and is subject to an order placing the person on probationary status.

(2) Explains that unless the person contacts the bureau and:

(A) pays the person's child support arrearage in full;

(B) ~~requests the activation of an income withholding order under IC 31-16-15-2 and~~ establishes a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;** or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the director shall place the person on probationary status with respect to any license issued to the person under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and**

~~(C) request the activation of an income withholding order under IC 31-16-15-2; and~~

~~(D)~~ **(C)** request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business days after the director receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(b) Upon receiving an order from the bureau under IC 31-25-4-34(e), the director shall send to the person who is the subject of the order a notice that states the following:

(1) That a license issued to the person under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the director receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(2) That if the director is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the director shall suspend the person's license.

(c) If a person whose license has been placed on probationary status fails to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the notice required under subsection (b) is mailed, the director shall suspend the person's license.

(d) The director may not reinstate a license placed on probation or suspended under this section until the director receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

SECTION 7. IC 25-1-1.2-8, AS AMENDED BY P.L.145-2006, SECTION 158, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The board shall, upon receiving an order from the bureau under IC 31-25-4-32(e), send a notice to the practitioner identified by the bureau that includes the following:

(1) Specifies that the practitioner is delinquent and is subject to an order placing the practitioner on probationary status.

(2) Describes the amount of child support that the practitioner is in arrears.

(3) Explains that unless the practitioner contacts the bureau and:

(A) pays the practitioner's child support arrearage in full;

(B) ~~requests the activation of an income withholding order under IC 31-16-15-2 and~~ establishes a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;** or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the board shall place the practitioner on probationary status.

(4) Explains that the practitioner may contest the bureau's determination that the practitioner is delinquent and subject to an order placing the practitioner on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(5) Explains that the only basis for contesting the bureau's determination that the practitioner is delinquent and subject to an order placing the practitioner on probationary status is a mistake of fact.

(6) Explains the procedures to:

(A) pay the practitioner's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and**

~~(C) request the activation of an income withholding order under IC 31-16-15-2; and~~

~~(D)~~ **(C)** request a hearing under IC 31-25-4-33.

(7) Explains that the probation will terminate ten (10) business days after the board receives a notice from the bureau that the practitioner has:

(A) paid the practitioner's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(b) If the board is advised by the bureau that the practitioner either requested a hearing and failed to appear or appeared and was found to be delinquent, the board shall promptly mail a notice to the practitioner who is the subject of the order stating the following:

(1) That the practitioner's license has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the board receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(2) That if the board is advised by the bureau that the practitioner whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the board shall suspend the practitioner's license.

(c) If the board is advised by the bureau that the practitioner whose license has been placed on probationary status has failed to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the board shall suspend the practitioner's license.

(d) The board may not reinstate a license or permit placed on probation or suspended under this section until the board receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or**

IC 31-16-15-2.5.

SECTION 8. IC 27-1-15.6-29, AS AMENDED BY P.L.145-2006, SECTION 164, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 29. (a) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-32(i), the commissioner shall send to the person who is the subject of the order a notice that does the following:

(1) States that the person is delinquent and is subject to an order placing the person on probationary status.

(2) Explains that unless the person contacts the bureau and:

(A) pays the person's child support arrearage in full;

(B) ~~requests the activation of an income withholding order under IC 31-16-15-2 and~~ establishes a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;** or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the commissioner shall place the person on probationary status with respect to a license issued to the person under this chapter.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and**

~~(C) request the activation of an income withholding order under IC 31-16-15-2; and~~

~~(D)~~ **(C)** request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(b) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-34(d), the commissioner shall send a notice to the person who is the subject of the order stating the following:

(1) That a license issued to the person under this chapter has been placed on probationary status, beginning five (5) business days after the date the notice was mailed, and that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(2) That if the commissioner is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the commissioner shall suspend the person's license.

(c) If the commissioner receives a notice by the bureau (Title IV-D agency) under IC 31-25-4-32(i) that the person whose license has been placed on probationary status has failed to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the notice required under subsection (b) is mailed, the commissioner shall suspend the person's license.

(d) The commissioner may not reinstate any license placed on probation or suspended under this section until the commissioner receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

SECTION 9. IC 27-10-3-20, AS AMENDED BY P.L.145-2006, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-32(i), the commissioner shall send to the person who is the subject of the order a notice that does the following:

(1) States that the person is delinquent and is subject to an order placing the person on probationary status.

(2) Explains that unless the person contacts the bureau and:

(A) pays the person's child support arrearage in full;

(B) ~~requests the activation of an income withholding order under IC 31-16-15-2 and~~ establishes a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;** or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the commissioner shall place the person on probationary status with respect to any license issued to the person under this chapter.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and**

~~(C) request the activation of an income withholding order under IC 31-16-15-2; and~~

~~(D)~~ **(C)** request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(b) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-34(d), the commissioner shall send to the person who is the subject of the order a notice that states the

following:

(1) That a license issued to the person under this chapter has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(2) That if the commissioner is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the commissioner shall suspend the person's license.

(c) If the commissioner receives a notice from the bureau (Title IV-D agency) under IC 31-25-4-32(i) that the person whose license has been placed on probationary status has failed to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the notice required under subsection (b) is mailed, the commissioner shall suspend the person's license.

(d) The commissioner may not reinstate any license placed on probation or suspended under this section until the commissioner receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

SECTION 10. IC 31-9-2-10.8, AS ADDED BY P.L.145-2006, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10.8. "Bureau", for purposes of **IC 31-16-15 and** IC 31-25 has the meaning set forth in IC 31-25-4-1.

SECTION 11. IC 31-9-2-85 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 85. (a) "Obligee", for purposes of **IC 31-16-15 and** IC 31-16-16, means a person who is entitled to receive a payment under a support order.

(b) "Obligee" or "petitioner", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-14.

SECTION 12. IC 31-9-2-125 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 125. (a) "Support order", for purposes of **IC 31-16-15 and** IC 31-16-16, means any judgment, decree, or order of child support, **including medical support,** issued by a court, in Indiana or another state, that has jurisdiction over the support order. The term includes orders issued under IC 31-14 through IC 31-17.

(b) "Support order", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-24.

SECTION 13. IC 31-9-2-130.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 130.2. "Title IV-D case", for purposes of IC 31-16-15, means a case arising under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).**

SECTION 14. IC 31-9-2-135, AS ADDED BY P.L.145-2006, SECTION 218, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 135. **(a)** "Warrant", for purposes of IC 31-25-3, IC 31-25-4, IC 31-26-2, IC 31-26-3, IC 31-28-1, IC 31-28-2, and IC 31-28-3, means an instrument that is:

(1) the equivalent of a money payment; and

(2) immediately convertible into cash by the payee for the full face amount of the instrument.

(b) "Warrant", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-21.

SECTION 15. IC 31-14-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Upon application for enforcement of a support order, the court may:

(1) enforce a judgment created under IC 31-16-16-2 (or IC 31-2-11-8 before its repeal) for the unpaid amount;

(2) issue an income withholding order as provided in ~~IC 31-16-15-1,~~ **IC 31-16-15-0.5;** or

(3) ~~activate~~ **implement** an existing income withholding order as provided in ~~IC 31-16-15-5 or IC 31-16-15-6.~~ **IC 31-16-15-2.**

SECTION 16. IC 31-14-12-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. (a) This section does not apply to a support order entered in a Title IV-D case.

(b) A custodial parent may, under IC 31-16-12.5, seek a setoff of the state income tax refund of a child support obligor against whom a child support order was entered under IC 31-14-11.

(c) A custodial parent may not be charged a fee to seek a setoff of a state income tax refund as described in subsection (b).

SECTION 17. IC 31-14-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. Notwithstanding section 4, 5, 6, or 7 of this chapter, the court may stay issuance of an order under section 4, 5, 6, or 7 of this chapter (or IC 31-6-6.1-16(j), IC 31-6-6.1-16(k), IC 31-6-6.1-16(l), or IC 31-6-6.1-16(m) before the repeal of IC 31-6-6.1-16) if:

(1) the person pays the child support arrearage in full; or

(2) an income withholding order under IC 31-16-15 (or IC 31-2-10 before its repeal) is ~~activated~~ **implemented** and a payment plan to pay the arrearage is established.

SECTION 18. IC 31-16-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A child support order ~~may also~~ **must** include ~~where appropriate, basic health and hospitalization insurance coverage for the child.~~ **an order for medical support to be provided by either or both parents.**

~~(b) If, however, the Title IV-D agency initiates action to establish a support obligation and petitions the court to include basic health and hospitalization insurance coverage in the support order, the court shall include a provision addressing insurance coverage for the child.~~

~~(c) In an action initiated by the Title IV-D agency or other parties, the court may order the parent who is ordered to pay child support to provide the insurance coverage for the child if the insurance coverage:~~

~~(1) is available to the parent ordered to pay child support or the dependents of the parent as part of the parent's employee benefit plan; or~~

~~(2) is available at reasonable cost to the parent ordered to pay child support.~~

(b) An order for medical support under this section shall be enforced under 42 U.S.C. 666(a)(19).

SECTION 19. IC 31-16-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** Provisions

of an order with respect to child support or an order for maintenance (ordered under IC 31-16-7-1 or IC 31-1-11.5-9(c) before ~~its~~ **their** repeal) may be modified or revoked.

(b) Except as provided in section 2 of this chapter, modification may be made only:

(1) upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable; or

(2) upon a showing that:

(A) a party has been ordered to pay an amount in child support that differs by more than twenty percent (20%) from the amount that would be ordered by applying the child support guidelines; and

(B) the order requested to be modified or revoked was issued at least twelve (12) months before the petition requesting modification was filed.

(c) Modification under this section is subject to IC 31-25-4-17(a)(6).

SECTION 20. IC 31-16-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. Upon application to the court for enforcement of an order for support, the court may:

(1) enforce a judgment created under IC 31-16-16-2 (or IC 31-2-11-8 before its repeal) against the person obligated to pay support;

(2) issue an income withholding order as provided in ~~IC 31-16-15-1;~~ **IC 31-16-15-0.5;** or

(3) ~~activate~~ **implement** an income withholding order as provided in ~~IC 31-16-15-5 or IC 31-16-15-6.~~ **IC 31-16-15-2.**

SECTION 21. IC 31-16-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. Notwithstanding section 7, 8, 9, or 10 of this chapter, the court may stay the issuance of an order under section 7, 8, 9, or 10 of this chapter (or IC 31-1-11.5-13(j), IC 31-1-11.5-13(k), IC 31-1-11.5-13(l), or IC 31-1-11.5-13(m) before the repeal of IC 31-1-11.5-13) if:

(1) the person pays the child support arrearage in full; or

(2) an income withholding order under IC 31-16-15 (or IC 31-2-10 before its repeal) is ~~activated~~ **implemented** and a payment plan to pay the arrearage is established.

SECTION 22. IC 31-16-12.5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9. A custodial parent may not be charged a fee to seek a setoff of a state income tax refund.**

SECTION 23. IC 31-16-15-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.5. (a) Except as provided in subsection (c), in any Title IV-D proceeding in which a court has ordered, modified, or enforced periodic payments of child support, the court shall order that child support payments be immediately withheld from the income of the obligor in an amount necessary to comply with the support order, including amounts for current child support obligations, child support arrearage, medical support, interest, and fees.**

(b) Except as provided in subsection (c), a court or Title IV-D agency shall implement an order for immediate income withholding under subsection (a):

(1) if the address of the obligor's income payor is known, not more than fifteen (15) calendar days after the date of the issuance of a support order; or

(2) if the address of the obligor's income payor is not known, not more than fifteen (15) calendar days after the date the address of the obligor's income payor becomes known.

(c) A court may stay implementation of an income withholding order only if one (1) or more of the following occurs:

(1) One (1) of the parties demonstrates and the court finds good cause not to order immediate income withholding by finding all of the following:

(A) A stay of implementation of the income withholding order is in the best interests of the child.

(B) The obligor has a history of substantially uninterrupted, full, and timely child support payments, other than payments made through an income withholding order or another mandatory process of previously ordered child support, during the previous twelve (12) months.

(C) The court issues a written finding that an income withholding order would cause an extraordinary hardship on the obligor.

(2) The parties submit a written agreement that:

(A) meets the requirements under subsection (d); and

(B) is approved by the court.

(d) A written agreement described in subsection (c)(2) must meet the following requirements:

(1) Contain the following:

(A) A statement that an income withholding order is not implemented immediately but that an income withholding order will be implemented if the:

(i) obligor's child support and arrearage payments become delinquent; or

(ii) obligor requests implementation of the income withholding order.

(B) A detailed description of an alternative payment arrangement between the parties to ensure the timely payment of child support.

(2) Contain a provision that the obligor shall provide current information to the court concerning the following:

(A) The name, address, and telephone number of the obligor's place of employment.

(B) Any health coverage available to the obligor as a benefit of employment or maintained by the obligor, including information on the:

(i) name of the carrier (as defined in IC 27-8-10-1);

(ii) health insurance policy, certificate, or contract number; and

(iii) if applicable, names and birth dates of the persons for whose benefit the obligor maintains health coverage under the health insurance policy, certificate, or contract.

(e) If possible, the court shall specify the date on which a stay of implementation of the income withholding order terminates automatically.

(f) In Title IV-D cases in which periodic payments of child support are ordered, modified, or enforced, the court shall order the obligor to inform the Title IV-D agency of the:

(1) name and address of the obligor's current income payor;

(2) obligor's access to health insurance coverage; and

(3) if applicable, obligor's health insurance policy information.

SECTION 24. IC 31-16-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A court ~~acting under section 1(d)(1) or 1(d)(2) of this chapter shall activate the immediate income withholding order under section 5 or 6 of this chapter~~ **shall lift a stay of implementation of an income withholding order granted under section 0.5(c) of this chapter** upon occurrence of ~~either~~ **one (1) or more** of the following:

(1) The obligor's support payment becomes delinquent.

(2) The obligor requests ~~that the withholding order become activated.~~ **implementation of the income withholding order.**

SECTION 25. IC 31-16-15-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.5. (a) If, in a Title IV-D case, an income withholding order has not been issued with a support order under section 0.5 of this chapter, a Title IV-D agency may:**

(1) issue an income withholding order with the support order; and

(2) after providing notice under section 3.5 of this chapter, implement the income withholding order unless the court:

(A) stays the implementation of the income withholding order under section 0.5(c) of this chapter; and

(B) provides a written finding of the stay in the support order.

(b) In a Title IV-D case in which the implementation of an income withholding order was stayed under section 0.5(c) of this chapter, the Title IV-D agency may:

(1) after providing notice under section 3.5 of this chapter, lift the stay if the obligor's child support and arrearage payments are delinquent; or

(2) lift the stay if the obligor requests implementation of the income withholding order.

(c) In a Title IV-D case, if:

(1) an income withholding order was stayed under section 0.5(c) of this chapter; and

(2) an obligor requests the implementation of the income withholding order;

the Title IV-D agency is not required to give notice under section 3.5 of this chapter before implementing the income withholding order.

(d) An income withholding order issued under subsection (a):

(1) has the same force and effect; and

(2) is enforceable in the same manner;

as an income withholding order issued by a court.

(e) The total amount required to be withheld under an income withholding order implemented under this section is the sum of:

(1) the obligor's current child support obligation; plus

(2) the amount of arrearage payment ordered by the court; plus

(3) an additional amount as determined under subsection (f) for:

(A) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or

(B) any additional arrearage that:

(i) has not been adjudicated; and

(ii) accrues since the last adjudication of arrearage by the court.

(f) If an obligor subject to an income withholding order is in arrears, unless otherwise ordered by a court, the Title IV-D agency or its agent may increase the weekly amount withheld as follows:

(1) If the arrearages are at least five hundred dollars ($500) and less than three thousand dollars ($3,000), an additional amount of up to twenty dollars ($20).

(2) If the arrearages are at least three thousand dollars ($3,000) and less than five thousand dollars ($5,000), an additional amount of up to twenty-five dollars ($25).

(3) If the arrearages are at least five thousand dollars ($5,000) and less than ten thousand dollars ($10,000), an additional amount of up to thirty dollars ($30).

(4) If the arrearages are at least ten thousand dollars ($10,000) and less than fifteen thousand dollars ($15,000), an additional amount of up to thirty-five dollars ($35).

(5) If the arrearages are at least fifteen thousand dollars ($15,000) and less than twenty thousand dollars ($20,000), an additional amount of up to forty dollars ($40).

(6) If the arrearages are at least twenty thousand dollars ($20,000) and less than twenty-five thousand dollars ($25,000), an additional amount of up to forty-five dollars ($45).

(7) If the arrearages are at least twenty-five thousand dollars ($25,000), an additional amount of up to fifty dollars ($50).

(g) A court is not bound by and is not required to consider the additional amounts described in subsection (f) when ordering, modifying, or enforcing periodic payments of child support.

SECTION 26. IC 31-16-15-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.6. An income withholding order issued under this chapter remains in effect until a child support obligation, including current child support, child support arrearage, medical support, interest, and fees, is paid in full.**

SECTION 27. IC 31-16-15-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.7. (a) The bureau shall:**

(1) prescribe standard forms for:

(A) an income withholding order; and

(B) a notice form; and

(2) make the forms listed in subdivision (1) available to:

(A) a court;

(B) a private attorney;

(C) an obligor; and

(D) an obligee.

(b) An income withholding order under this chapter must be issued in a form substantially similar to the form prescribed under subsection (a)(1)(A).

SECTION 28. IC 31-16-15-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.5. (a) Except as provided under section 2.5(c) of this chapter, a Title IV-D agency shall issue a notice of intent to withhold income to an obligor before the Title IV-D agency implements an income withholding order under section 2.5 of this chapter. The notice is sufficient for all future income withholding until the child support obligation is fully satisfied.**

(b) The notice under subsection (a) must contain the following:

(1) A statement that an income withholding order will be sent to all current and future income payors.

(2) If applicable, the amount of child support that the obligor is in arrears.

(3) A statement that the income shall be:

(A) withheld by a current and future income payor from the obligor's income for the payment of child support; and

(B) forwarded to the state central collection unit with a statement identifying the:

(i) cause number for the obligee;

(ii) name of the obligor;

(iii) name of the obligee with the applicable income withheld for each obligee forwarded from the income payor;

(iv) Social Security number of each obligee; and

(v) Indiana support enforcement tracking system (ISETS) number for each obligee.

(4) A statement that the total amount of income to be withheld by the Title IV-D agency under the income withholding order is the sum of:

(A) the obligor's current child support obligation; plus

(B) the amount of any arrearage payment ordered

by the court; plus

(C) an additional amount as determined under section 2.5(f) of this chapter for:

(i) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or

(ii) any additional arrearage that has not been adjudicated and accrues since the last adjudication of arrearage by the court; plus

(D) a fee of two dollars ($2), which must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.

(5) A statement that:

(A) the total amount withheld under the income withholding order may not exceed the maximum amount permitted under 15 U.S.C. 1673(b);

(B) the income withholding order applies to the receipt of any current or subsequent income from a current or future income payor;

(C) the obligor may contest the Title IV-D agency's determination to implement an income withholding order by making written application to the Title IV-D agency not more than twenty (20) days after the date the notice under this section is mailed to the obligor;

(D) the only basis for contesting the implementation of an income withholding order is a mistake of fact;

(E) if the obligor contests the Title IV-D agency's determination to implement the income withholding order, the Title IV-D agency shall schedule an administrative hearing;

(F) if the obligor does not contest the Title IV-D agency's determination to implement an income withholding order within the period of time required under section 4.3 of this chapter, the Title IV-D agency shall implement the income withholding order;

(G) an income payor shall:

(i) begin withholding income not later than the first pay date after fourteen (14) days following the date the income withholding order is received by the income payor; and

(ii) report to the state central collection unit the date on which the income was withheld from the obligor's income;

(H) if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a single payment for all obligors who are required to make payments to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor;

(I) if the obligor has:

(i) more than one (1) income withholding order against the obligor; and

(ii) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;

an income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to a current income withholding order;

(J) an income payor shall honor all withholdings to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b);

(K) the income withholding order is binding upon the income payor until further notice by the Title IV-D agency;

(L) an income payor that:

(i) discharges the obligor from employment;

(ii) refuses to employ the obligor;

(iii) takes disciplinary action against the obligor employed by the income payor; or

(iv) otherwise discriminates against the obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order is subject to a penalty not to exceed five thousand dollars ($5,000) payable to the state and recoverable in a civil action;

(M) if an income payor fails to withhold income in accordance with the income withholding order, the income payor is liable for:

(i) the accumulated amount the income payor should have withheld from the obligor's income; and

(ii) any interest, attorney's fees, and costs;

(N) an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes; and

(O) the income payor must notify the Title IV-D agency if the obligor:

(i) ceases employment with; or

(ii) no longer receives income from;

the income payor, not later than ten (10) days after the date the obligor's employment or income ceases, and provide the obligor's last known address and the name and address of the obligor's new income payor, if known, to the Title IV-D agency.

(c) If the Title IV-D agency issues a notice of intent to withhold income to the obligor under this section, the Title IV-D agency is not required to provide further notice to continue to implement or amend the income withholding order unless the income withholding order is stayed by the court under section 0.5(c) of this chapter.

SECTION 29. IC 31-16-15-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.3. (a) An obligor may contest a Title IV-D agency's determination to implement an income withholding order under section 2.5 of this chapter by making a written application to the Title IV-D agency not more than twenty (20) days after the date the notice is mailed to the obligor.**

(b) The only basis on which an obligor may contest the implementation of an income withholding order under section 2.5 of this chapter is mistake of fact.

(c) If an obligor does not contest the implementation of an income withholding order within the period described in subsection (a), the Title IV-D agency shall send the income withholding order to the income payor not more than fifteen (15) calendar days after:

(1) the last date that the obligor has to contest the implementation of an income withholding order under subsection (a); or

(2) if the income payor's address is not known on the date described under subdivision (1), the date the Title IV-D agency obtains the income payor's address.

(d) A Title IV-D agency shall:

(1) not more than twenty-five (25) days after an obligor makes written application to contest an income withholding order under subsection (a), hold a hearing to review the Title IV-D agency's determination to implement the income withholding order; and

(2) make a determination on the implementation of the income withholding order at the hearing.

(e) If the Title IV-D agency implements an income withholding order after a hearing under this section, the Title IV-D agency shall provide the income withholding order to each income payor as provided under section 6.5 of

this chapter.

SECTION 30. IC 31-16-15-4.5, AS AMENDED BY P.L.145-2006, SECTION 239, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. **(a)** The ~~child~~ ~~support~~ bureau ~~of the department~~ shall send notice to an employer, using the National Medical Support Notice described in 45 CFR 303.3, that:

(1) a parent ordered to pay support has been ordered to provide insurance coverage as part of the parent's employee benefit plan under IC 31-16-6-4; or

(2) an obligation to provide insurance coverage under subdivision (1) is no longer in effect.

(b) Upon receipt of the notice under subsection (a), the employer shall:

(1) respond to the notice in a timely fashion; and

(2) abide by the terms of establishing insurance coverage as required by the notice.

SECTION 31. IC 31-16-15-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.5. (a) An obligor or an obligee may file a petition to lift a stay of implementation of an income withholding order.**

(b) If an obligee files a petition under subsection (a), the court shall:

(1) set a date for a hearing on the petition; and

(2) send a written notice of the hearing to lift the stay of implementation of the income withholding order to the obligor in accordance with subsection (c).

The court must set a date for the hearing that is not more than twenty (20) days after the date the petition is filed.

(c) The notice under subsection (b)(2) must include the following:

(1) A statement as to whether the obligor is delinquent in the payment of child support.

(2) If applicable, the amount of child support the obligor is in arrears.

(3) A statement that if the petition is granted, the obligor's income shall be:

(A) withheld by the court for the payment of child support; and

(B) forwarded to the state central collection unit with a statement identifying:

(i) the cause number for each obligee;

(ii) the name of each obligor;

(iii) the name of each obligee with the amount of the withheld income forwarded by the income payor;

(iv) the Social Security number of each obligor; and

(v) the Indiana support enforcement tracking system (ISETS) number for each obligee.

(4) The following statements:

(A) That the total amount of income to be withheld under an income withholding order from the obligor's income is the sum of:

(i) the obligor's current child support obligation; plus

(ii) the amount of arrearage payment ordered by the court; plus

(iii) a fee of two dollars ($2), which must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.

(B) That the total amount of income withheld may not exceed the maximum amount permitted by 15 U.S.C. 1673(b).

(C) That the income withholding order applies to the receipt of any current or subsequent income.

(D) That the only basis for contesting the petition to lift the stay of implementation of the income withholding order is a mistake of fact.

(E) That an obligor may contest the court's lifting the stay of the income withholding order by appearing at the hearing scheduled by the court on the petition to lift the stay.

(F) That if the obligor does not appear at the hearing, the court shall implement the income withholding order.

(G) That an income payor shall:

(i) begin withholding income not later than the first pay date after fourteen (14) days following the date the income withholding order is received by the income payor; and

(ii) report to the state central collection unit the date on which the income was withheld from the obligor's income.

(H) That if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a single payment for all obligors who are required to make payments to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor.

(I) That if an obligor has:

(i) more than one (1) income withholding order against the obligor; and

(ii) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;

the income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to a current income withholding order.

(J) That an income payor shall honor all withholding to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b).

(K) That the income withholding is binding upon the income payor until further notice by the court.

(L) That an income payor that:

(i) discharges the obligor from employment;

(ii) refuses to employ the obligor;

(iii) takes disciplinary action against the obligor employed by the income payor; or

(iv) otherwise discriminates against the obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, is subject to a penalty not to exceed five thousand dollars ($5,000) payable to the state and recoverable in a civil action.

(M) That if the income payor fails to withhold income in accordance with the income withholding order, the income payor is liable for:

(i) the accumulated amount the income payor should have withheld from the obligor's income; and

(ii) any interest, attorney's fees, and costs.

(N) That an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes.

(O) That the income payor must notify the court if the obligor:

(i) ceases employment with; or

(ii) no longer receives income from;

the income payor not later than ten (10) days after the date the obligor's employment or income ceases and provide the obligor's last known address and the name and address of the obligor's new income payor,

if known, to the court.

(d) At a hearing under this section, the court shall grant the petition to lift the stay of implementation of the income withholding order if the obligor has failed to comply with the provisions of the support order, unless the court finds that the conditions under section 0.5(c)(2) of this chapter have been met.

(e) If the obligor files a petition to lift the stay of implementation of the income withholding order:

(1) a hearing is not required; and

(2) the court shall grant the petition.

(f) If the court grants the petition to lift the stay of implementation of the income withholding order, the court shall:

(1) implement the income withholding order; and

(2) send the income withholding order to the obligor's income payor.

SECTION 32. IC 31-16-15-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.5. A court or Title IV-D agency may serve an income withholding order on an income payor by:**

(1) first class mail;

(2) facsimile transmission; or

(3) other electronic means approved by the Title IV-D agency.

SECTION 33. IC 31-16-15-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7.5. (a) An income payor that is required to withhold income under this chapter shall:**

(1) forward income withheld for the payment of current or past due child support as directed by an income withholding order to the state central collection unit at the time that an obligor is paid;

(2) include a statement that identifies the:

(A) cause number for each obligee;

(B) Indiana support enforcement tracking system (ISETS) case number for each obligee;

(C) name of each obligor and the obligor's Social Security number; and

(D) name of each obligee with the amount of the withheld income forwarded by the income payor; and

(3) begin withholding income not later than the first pay date after fourteen (14) days following the date the order for income withholding is received by the income payor.

(b) An income payor may retain, in addition to the amount of income forwarded to the state central collection unit, a fee of not more than two dollars ($2) each time the income payor forwards income to the state central collection unit. If an income payor retains a fee under this subsection, the income payor shall reduce the amount of income withheld for the payment of current and past due child support, if necessary to avoid exceeding the maximum amount permitted to be withheld under 15 U.S.C. 1673(b).

SECTION 34. IC 31-16-15-16, AS AMENDED BY P.L.148-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) Except as provided in subsection (b), if the income payor is required to withhold income from more than one (1) obligor under this chapter, the income payor may

~~(1)~~ combine in a single payment the withheld amounts for all obligors who have been ordered to pay to the state central collection unit established by ~~IC 31-33-1.5-8 and~~ **IC 31-25-3-1**

~~(2)~~ **if the income payor** separately ~~identify~~ **identifies** the part of the single payment that is attributable to each individual obligor.

(b) If the income payor:

(1) is required to withhold income from more than one (1) obligor under this chapter; and

(2) employs more than fifty (50) employees;

the income payor shall make payments to the state central collection unit established by ~~IC 31-33-1.5-8~~ **IC 31-25-3-1** through electronic funds transfer or through electronic or Internet access made available by the state central collection unit.

(c) The department of child services shall assess a civil penalty of twenty-five dollars ($25) per obligor per pay period against an income payor that:

(1) is required to make a payment under subsection (b); and

(2) does not make the payment through electronic funds transfer or other means described in subsection (b).

The department shall deposit the penalties into the state general fund.

SECTION 35. IC 31-16-15-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. If:

(1) there is more than one (1) order for withholding against a single obligor under this chapter; and

(2) the obligor has insufficient disposable earnings to pay the amount required by all the orders;

the income payor shall distribute the withheld earnings pro rata among the ~~entities~~ **persons** entitled to receive earnings under the orders and shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).

SECTION 36. IC 31-16-15-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. The income payor shall:

(1) notify:

(A) the Title IV-D agency in a case arising under section ~~3 or 5~~ **2.5** of this chapter; or

(B) the court in a case arising under section ~~4 or 6~~ **0.5, 2, or 5.5** of this chapter;

when the obligor ceases to receive income not later than ten (10) days after the employment or income ceases; and

(2) provide:

(A) the obligor's last known address; and

(B) the name and address of the obligor's new income payor if known.

SECTION 37. IC 31-16-15-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) If an obligor:

(1) is entitled to net income in the form of:

(A) severance pay;

(B) accumulated sick pay;

(C) vacation pay;

(D) accumulated commissions;

(E) a bonus payment **in addition to regular earned income;** or

(F) other lump sum payment; and

(2) owes an amount of child support that is in arrears;

the income payor shall withhold the amount in arrears or the product computed under subsection (b), whichever is less, up to the maximum permitted under 15 U.S.C. 1673(b).

(b) The income payor shall multiply:

(1) the amount of support the obligor is required to pay each week; by

(2) the number of weeks represented by the lump sum payment.

SECTION 38. IC 31-16-15-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) An income withholding order under section ~~3~~ **0.5 or 2.5** of this chapter (or IC 31-2-10-7 before its repeal) terminates when both of the following occur:

(1) The duty to support a child ceases under IC 31-14 or IC 31-16-2 through IC 31-16-12.

(2) No child support arrearage exists.

(b) ~~Activation of income withholding terminates~~ **A court or Title IV-D agency may terminate income withholding** when the whereabouts of the child and the child's custodial parent are unknown, preventing the forwarding of child support payments.

SECTION 39. IC 31-16-15-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. **(a)** If an income payor fails to forward the money required by an income withholding order, ~~as set forth in the notice described in section 10 of this chapter,~~ **the Title IV-D agency shall send the income payor, by certified mail, a notice of failure to comply. If the income payor fails to forward the money required by an income withholding order within thirty (30) days after receipt of the notice of failure to comply,** the income payor is liable for the amount the income payor fails to forward.

(b) An income payor described in subsection (a) is liable to the:

(1) obligee for the amount of income not paid in compliance with the income withholding order, including an amount the obligor is required to pay for health insurance coverage; and

(2) obligor for:

(A) the amount of income withheld and not paid as required under the income withholding order;

(B) an amount equal to the interest that accrues according to the interest percentage that accrues on judgments; and

(C) reasonable attorney's fees and court costs.

(c) An income payor that:

(1) receives an income withholding order from a court or Title IV-D agency; and

(2) fails to comply with the income withholding order;

may be liable for contempt of court.

(d) If an obligor has filed a claim for worker's compensation, the income payor of the obligor shall send a copy of the income withholding order to the income payor's insurance carrier if the income payor has an insurance carrier with whom the claim has been filed in order to continue the ordered withholding of income.

SECTION 40. IC 31-16-15-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 25. ~~(a) If an obligor is:~~

~~(1) discharged from employment;~~

~~(2) refused employment; or~~

~~(3) disciplined;~~

~~because the income payor is required to withhold income of the obligor under this chapter, the obligor is entitled to recover an amount of not less than one hundred dollars ($100).~~

~~(b) The obligor may collect the money described in subsection (a) by filing a civil action against the income payor in a circuit or superior court.~~

(a) An income payor that:

(1) discharges from employment an obligor;

(2) refuses to employ an obligor;

(3) takes disciplinary action against an obligor employed by the income payor; or

(4) otherwise discriminates against an obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, is subject to a penalty not to exceed five thousand dollars ($5,000) payable to the state and recoverable in a civil action. An obligor or the Title IV-D agency may bring an action to enforce a penalty under this subsection.

~~(c)~~ **(b)** The collection of money under this section does not affect:

(1) the obligor's right to damages under IC 24-4.5-5-202; or

(2) any other legal remedy available to the obligor;

because of discharge from employment, refusal of employment, or disciplinary action.

SECTION 41. IC 31-16-15-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. ~~(a)~~ If the Title IV-D agency or the court becomes aware that the obligor has a new income payor after income withholding has been ~~activated under section 5 or 6 of this chapter.~~ **implemented:**

(1) **if** the **order is an income withholding order implemented under section 2.5 of this chapter, the** Title IV-D agency; ~~in a case arising under section 5 of this chapter,~~ or

(2) **if the order is an income withholding order implemented under section 0.5 of this chapter or an income withholding order implemented after a stay has been lifted under section 5.5 of this chapter,** the court ~~in a case arising under section 6 of this chapter,~~ **or the Title IV-D agency;**

shall send ~~a notice~~ **the income withholding order** to the new income payor. ~~that the withholding is binding on the new income payor.~~

~~(b) The notice sent under subsection (a) must comply with section 10 of this chapter.~~

SECTION 42. IC 31-16-15-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 29. (a) The registration of a foreign support order as provided in IC 31-18-6 is sufficient for the implementation of an income withholding order by the Title IV-D agency.**

(b) The Title IV-D agency shall issue a notice in accordance with section 3.5 of this chapter of the implementation of a foreign support order to the obligor.

SECTION 43. IC 31-16-15-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 30. A Title IV-D agency or an agent of a Title IV-D agency acting within the scope of the agent's employment is not subject to any civil liability for income withheld and paid to an obligee, the Title IV-D agency, or the state central collection unit in accordance with an income withholding order.**

SECTION 44. IC 31-25-3-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3. The bureau established by section 1 of this chapter or an agent of the bureau may issue a subpoena under Indiana Trial Rule 45 to obtain any financial or other information needed to establish, modify, or enforce a child support order.**

SECTION 45. IC 31-25-4-17, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) The bureau shall do the following:

(1) Collect support payments when the payments have been assigned to the state by the application for assistance under Title IV-A.

(2) Assist in obtaining a support order, including an order for health insurance coverage under:

(A) IC 27-8-23;

(B) IC 31-14-11-3; or

(C) IC 31-16-6-4;

when there is no existing order and assistance is sought.

(3) Assist mothers of children born out of wedlock in establishing paternity and obtaining a support order, including an order for health insurance coverage under IC 27-8-23, when the mother has applied for assistance.

(4) Implement income withholding in any Title IV-D case:

(A) with an arrearage; and

(B) without an order issued by a court or an administrative agency.

(5) Enforce intrastate and interstate support orders using high volume automated enforcement features.

(6) Use a simplified procedure for the review and adjustment of support orders as set forth in 42 U.S.C.

666(a)(10).

(b) Whenever the bureau collects support payments on behalf of an individual who is no longer a member of a household that receives Title IV-A cash payments, the collected support payments (except collections made through a federal tax refund offset) shall be promptly distributed in the following order:

(1) Payment to the recipient of the court ordered support obligation for the month that the support payment is received.

(2) Payment to the recipient of the support payment arrearages that have accrued during any period when the recipient was not a member of a household receiving Title IV-A assistance.

(3) Payment to the state in an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the recipient's family; or

(B) the amount assigned to the state by the recipient under IC 12-14-7-1.

(4) Payment of support payment arrearages owed to the recipient.

(5) Payment of any other support payments payable to the recipient.

(c) Whenever the bureau receives a payment through a federal tax refund offset on behalf of an individual who has received or is receiving Title IV-A assistance, the child support payment shall be distributed as follows:

(1) To the state, an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the individual's family; or

(B) the amount assigned to the state by the individual under IC 12-14-7-1.

(2) To the individual, any amounts remaining after the distribution under subdivision (1).

(d) **Except as provided in section 19.5 of this chapter,** whenever the bureau collects a child support payment from any source on behalf of an individual who has never received Title IV-A assistance, the bureau shall forward all money collected to the individual.

(e) Whenever the bureau receives a child support payment on behalf of an individual who currently receives a Title IV-A cash payment or an individual whose cash payment was recouped, the child support payment shall be distributed as follows:

(1) To the state, an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the individual's family; or

(B) the amount assigned to the state by the individual under IC 12-14-7-1.

(2) To the individual, any amounts remaining after the distribution under subdivision (1).

(f) Unless otherwise required by federal law, not more than seventy-five (75) days after a written request by a recipient, the bureau shall provide an accounting report to the recipient that identifies the bureau's claim to a child support payment or arrearage.

(g) The bureau, the department of child services, and the department of state revenue may not charge a custodial parent a fee to seek or receive a payment through a federal tax refund offset as described in subsection (c).

SECTION 46. IC 31-25-4-19.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 19.5. (a) If a Title IV-D agency collects at least five hundred dollars ($500) of child support payments on behalf of an individual who has never received Title IV-A assistance, the Title IV-D agency shall collect a fee in accordance with 42 U.S.C. 654(6). The Title IV-D agency may collect the fee by issuance and implementation of an income withholding order.**

(b) The Title IV-D agency shall collect the fee described in subsection (a) from one (1) of the following:

(1) Any amount of child support payments that exceeds five hundred dollars ($500) collected on behalf of the individual who applied for the services of collecting the child support payments.

(2) The parent who owes the child support obligation being enforced by the Title IV-D agency.

(3) State funds appropriated for the purpose of paying a fee under subsection (a).

SECTION 47. IC 31-25-4-31, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. (a) The bureau shall operate a data match system with each financial institution doing business in Indiana.

(b) Each financial institution doing business in Indiana shall provide information to the bureau on all noncustodial parents who:

(1) hold one (1) or more accounts with the financial institution; and

(2) are delinquent.

(c) In order to provide the information required under subsection (b), a financial institution shall either:

(1) identify noncustodial parents by comparing records maintained by the financial institution with records provided by the bureau by:

(A) name; and

(B) either Social Security number or tax identification number; or

(2) submit to the bureau a report, in a form satisfactory to the bureau, that includes the Social Security number or tax identification number of each individual maintaining an account at the financial institution.

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either the Social Security number or tax identification number;

of an individual identified under subsection (b).

(e) When the bureau has determined that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual whose name appears on the quarterly list prepared by the bureau under section 30 of this chapter, the bureau shall provide a notice of the match if action is to be initiated to block or encumber the account by establishing a lien for child support payment to the:

(1) individual; and

(2) financial institution holding the account.

(f) The notice under section (e) must inform the individual that:

(1) the individual's account in a financial institution is subject to a child support lien; and

(2) the individual may file an appeal with the bureau within twenty (20) days after the date the notice was issued.

(g) The bureau shall hold a hearing under 470 IAC 1-4. The department's final action following a hearing held under this ~~subdivision~~ **subsection** is subject to judicial review as provided in 470 IAC 1-4.

(h) The state's lien on assets under this section is subordinate to any prior lien perfected by:

(1) a financial institution; or

(2) another legitimate lien holder.

(i) A lien issued under this section remains in effect until the earliest of:

(1) one hundred twenty (120) days after issuance;

(2) the date the asset on which the lien is issued is surrendered; or

(3) the date the lien is released by an action of the bureau.

(j) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the noncustodial parent has an interest in any debts owed to the financial institution that existed before:

(A) the state's lien; and

(B) notification to the financial institution of the child support delinquency.

(k) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(l) All information provided by a financial institution under this section is confidential and is available only to the bureau or its agents for use only in child support enforcement activities.

(m) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the bureau;

(2) blocking or surrendering any of an individual's assets in response to a lien imposed by:

(A) the bureau under this section; or

(B) a person or entity acting on behalf of the bureau; or

(3) any other action taken in good faith to comply with this section.

(n) The department shall pay a financial institution performing the data match required by this section a reasonable fee for providing the service that does not exceed the actual cost incurred by the financial institution.

(o) This section does not prevent the bureau or its agents from encumbering an obligor's account with a financial institution by any other remedy available for the enforcement of a child support order.

SECTION 48. IC 31-25-4-32, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. (a) When the Title IV-D agency finds that an obligor is delinquent and can demonstrate that all previous enforcement actions have been unsuccessful, the Title IV-D agency shall send, to a verified address, a notice to the obligor that does the following:

(1) Specifies that the obligor is delinquent.

(2) Describes the amount of child support that the obligor is in arrears.

(3) States that unless the obligor:

(A) pays the obligor's child support arrearage in full;

(B) ~~requests the activation of an income withholding order under IC 31-16-15-2 and~~ establishes a payment plan with the Title IV-D agency to pay the arrearage, **which includes an income withholding order;** or

(C) requests a hearing under section 33 of this chapter;

within twenty (20) days after the date the notice is mailed, the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent and that the obligor's driving privileges shall be suspended.

(4) Explains that the obligor has twenty (20) days after the notice is mailed to do one (1) of the following:

(A) Pay the obligor's child support arrearage in full.

(B) ~~Request the activation of an income withholding order under IC 31-16-15-2 and~~ Establish a payment plan with the Title IV-D agency to pay the arrearage, **which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

(C) Request a hearing under section 33 of this chapter.

(5) Explains that if the obligor has not satisfied any of the requirements of subdivision (4) within twenty (20) days after the notice is mailed, that the Title IV-D agency shall issue a notice to:

(A) the board or department that regulates the obligor's profession or occupation, if any, that the obligor is delinquent and that the obligor may be subject to sanctions under IC 25-1-1.2, including suspension or revocation of the obligor's professional or occupational license;

(B) the supreme court disciplinary commission if the obligor is licensed to practice law;

(C) the department of education established by IC 20-19-3-1 if the obligor is a licensed teacher;

(D) the Indiana horse racing commission if the obligor holds or applies for a license issued under IC 4-31-6;

(E) the Indiana gaming commission if the obligor holds or applies for a license issued under IC 4-33;

(F) the commissioner of the department of insurance if the obligor holds or is an applicant for a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3; or

(G) the director of the department of natural resources if the obligor holds or is an applicant for a license issued by the department of natural resources under the following:

(i) IC 14-22-12 (fishing, hunting, and trapping licenses).

(ii) IC 14-22-14 (Lake Michigan commercial fishing license).

(iii) IC 14-22-16 (bait dealer's license).

(iv) IC 14-22-17 (mussel license).

(v) IC 14-22-19 (fur buyer's license).

(vi) IC 14-24-7 (nursery dealer's license).

(vii) IC 14-31-3 (ginseng dealer's license).

(6) Explains that the only basis for contesting the issuance of an order under subdivision (3) or (5) is a mistake of fact.

(7) Explains that an obligor may contest the Title IV-D agency's determination to issue an order under subdivision (3) or (5) by making written application to the Title IV-D agency within twenty (20) days after the date the notice is mailed.

(8) Explains the procedures to:

(A) pay the obligor's child support arrearage in full; **and**

(B) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~and~~ **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

~~(C) request the activation of an income withholding order under IC 31-16-15-2.~~

(b) Whenever the Title IV-D agency finds that an obligor is delinquent and has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;** or

(3) request a hearing under section 33 of this chapter within twenty (20) days after the date the notice described in subsection (a) is mailed;

the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent.

(c) An order issued under subsection (b) must require the following:

(1) If the obligor who is the subject of the order holds a driving license or permit on the date the order is issued, that the driving privileges of the obligor be suspended until further order of the Title IV-D agency.

(2) If the obligor who is the subject of the order does not hold a driving license or permit on the date the order is issued, that the bureau of motor vehicles may not issue a driving license or permit to the obligor until the bureau of motor vehicles receives a further order from the Title IV-D agency.

(d) The Title IV-D agency shall provide the:

(1) full name;
(2) date of birth;
(3) verified address; and
(4) Social Security number or driving license number;
of the obligor to the bureau of motor vehicles.

(e) Whenever the Title IV-D agency finds that an obligor who is an applicant (as defined in IC 25-1-1.2-1) or a practitioner (as defined in IC 25-1-1.2-6) is delinquent and the applicant or practitioner has failed to:

(1) pay the obligor's child support arrearage in full;
(2) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~or request the activation of~~ **which includes** an income withholding order under ~~IC 31-16-15,~~ **IC 31-16-15-2 or IC 31-16-15-2.5;** or
(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the board regulating the practice of the obligor's profession or occupation stating that the obligor is delinquent.

(f) An order issued under subsection (e) must direct the board or department regulating the obligor's profession or occupation to impose the appropriate sanctions described under IC 25-1-1.2.

(g) Whenever the Title IV-D agency finds that an obligor who is an attorney or a licensed teacher is delinquent and the attorney or licensed teacher has failed to:

(1) pay the obligor's child support arrearage in full;
(2) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~or request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;** or
(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall notify the supreme court disciplinary commission if the obligor is an attorney, or the department of education if the obligor is a licensed teacher, that the obligor is delinquent.

(h) Whenever the Title IV-D agency finds that an obligor who holds a license issued under IC 4-31-6 or IC 4-33 has failed to:

(1) pay the obligor's child support arrearage in full;
(2) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;** or
(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the Indiana horse racing commission if the obligor holds a license issued under IC 4-31-6, or to the Indiana gaming commission if the obligor holds a license issued under IC 4-33, stating that the obligor is delinquent and directing the commission to impose the appropriate sanctions described in IC 4-31-6-11 or IC 4-33-8.5-3.

(i) Whenever the Title IV-D agency finds that an obligor who holds a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 has failed to:

(1) pay the obligor's child support arrearage in full;
(2) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;** or
(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the commissioner of the department of insurance stating that the obligor is delinquent and directing the commissioner to impose the appropriate sanctions described in IC 27-1-15.6-29 or IC 27-10-3-20.

(j) Whenever the Title IV-D agency finds that an obligor who holds a license issued by the department of natural resources under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 has failed to:

(1) pay the obligor's child support arrearage in full;
(2) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;** or
(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the director of the department of natural resources stating that the obligor is delinquent and directing the director to suspend or revoke a license issued to the obligor by the department of natural resources as provided in IC 14-11-3.

SECTION 49. IC 33-37-5-6, AS AMENDED BY P.L.148-2006, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 6. (a) This section applies to an action in which a final court order requires a person to pay support or maintenance payments through the clerk or the state central collection unit.

(b) The clerk or the state central collection unit shall collect a fee in addition to support and maintenance payments. The fee is ~~thirty dollars ($30)~~ **fifty-five dollars ($55)** for each calendar year.

(c) The fee required under subsection (b) is due at the time that the first support or maintenance payment for the calendar year in which the fee must be paid is due.

(d) The clerk may not deduct the fee from a support or maintenance payment.

(e) Except as provided under IC 33-32-4-6 and IC 33-37-7-2(g), if a fee is collected under this section by the clerk, the clerk shall forward the fee to the county auditor in accordance with IC 33-37-7-12(a). If a fee is collected under this section by the central collection unit, the fee shall be deposited in the state general fund.

(f) Income payors required to withhold income under IC 31-16-15 shall pay the annual fee required by subsection (b) through the income withholding procedures described in ~~IC 31-16-15-1.~~ **IC 31-16-15.**

SECTION 50. IC 34-30-2-133.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 133.2. IC 31-16-15-30 (Concerning a Title IV-D agency or an agent of a Title IV-D agency for withholding income paid to an obligee, the Title IV-D agency, or the state central collection unit in accordance with an income withholding order).**

SECTION 51. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 31-16-15-1; IC 31-16-15-3; IC 31-16-15-4; IC 31-16-15-5; IC 31-16-15-6; IC 31-16-15-7; IC 31-16-15-8; IC 31-16-15-9; IC 31-16-15-10; IC 31-16-15-11; IC 31-16-15-12; IC 31-16-15-13; IC 31-16-15-14; IC 31-16-15-15; IC 31-16-15-21; IC 31-16-15-24.

(Reference is to ESB 329 as reprinted April 10, 2007.)

C. LAWSON	WELCH
SIMPSON	BELL
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 328–1; filed April 25, 2007, at 4:59 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 328 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 10-13-3-27.5, AS AMENDED BY

P.L.146-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27.5. (a) If:

(1) exigent circumstances require the emergency placement of a child; and

(2) the department will be unable to obtain criminal history information from the Interstate Identification Index before the emergency placement is scheduled to occur;

upon request of the department of child services established by IC 31-25-1-1, a caseworker, or a juvenile probation officer, the department may conduct a national name based criminal history record check of each individual **who is at least eighteen (18) years of age and** who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location. The department shall promptly transmit a copy of the report it receives from the Interstate Identification Index to the agency or person that submitted a request under this section.

(b) Not later than seventy-two (72) hours after the department of child services, the caseworker, or the juvenile probation officer receives the results of the national name based criminal history record check, the department of child services, the caseworker, or the juvenile probation officer shall provide the department with a complete set of fingerprints for each individual **who is at least eighteen (18) years of age and** who is currently residing in the location designated as the out-of-home placement at the time the child will be placed in the location. The department shall:

(1) use fingerprint identification to positively identify each individual ~~who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location;~~ **whose fingerprints are provided to the department under this subsection;** or

(2) submit the fingerprints to the Federal Bureau of Investigation not later than fifteen (15) calendar days after the date on which the national name based criminal history record check was conducted.

The child shall be removed from the location designated as the out-of-home placement if an individual **who is at least eighteen (18) years of age and** who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location fails to provide a complete set of fingerprints to the department of child services, the caseworker, or the juvenile probation officer.

(c) The department and the person or agency that provided fingerprints shall comply with all requirements of 42 U.S.C. 5119a and any other applicable federal law or regulation regarding:

(1) notification to the subject of the check; and

(2) the use of the results obtained based on the check of the person's fingerprints.

(d) If an out-of-home placement is denied as the result of a national name based criminal history record check, an individual who is ~~currently residing in the location designated as the out-of-home placement at the time the child will reside in the location~~ **the subject of the name based criminal history record check** may contest the denial by submitting to the department of child services, the caseworker, or the juvenile probation officer:

(1) a complete set of the individual's fingerprints; and

(2) written authorization permitting the department of child services, the caseworker, or the juvenile probation officer to forward the fingerprints to the department for submission to the Federal Bureau of Investigation;

not later than five (5) days after the out-of-home placement is denied.

(e) The:

(1) department; and

(2) Federal Bureau of Investigation;

may charge a reasonable fee for processing a national name based criminal history record check. The department shall adopt rules under IC 4-22-2 to establish a reasonable fee for processing a national name based criminal history record check and for collecting fees owed under this subsection.

(f) The:

(1) department of child services, for an out-of-home placement arranged by a caseworker or the department of child services; or

(2) juvenile court, for an out-of-home placement ordered by the juvenile court;

shall pay the fee described in subsection (e), arrange for fingerprinting, and pay the costs of fingerprinting, if any.

SECTION 2. IC 10-13-3-39, AS AMENDED BY P.L.234-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 39. (a) The department is designated as the authorized agency to receive requests for, process, and disseminate the results of national criminal history background checks that comply with this section and 42 U.S.C. 5119a.

(b) A qualified entity may contact the department to request a national criminal history background check on any of the following persons:

(1) A person who seeks to be or is employed with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person is initially employed by the qualified entity.

(2) A person who seeks to volunteer or is a volunteer with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person initially volunteers with the qualified entity.

(3) A person for whom a national criminal history background check is required under any law relating to the licensing of a home, center, or other facility for purposes of day care or residential care of children.

(4) A person for whom a national criminal history background check is required for purposes of placement of a child in a foster family home, a prospective adoptive home, or the home of a relative or other caretaker, or for purposes of a report concerning an adoption as required by IC 31-19-8.

(c) A qualified entity must submit a request under subsection (b) in the form required by the department and provide a set of the person's fingerprints and any required fees with the request.

(d) If a qualified entity makes a request in conformity with subsection (b), the department shall submit the set of fingerprints provided with the request to the Federal Bureau of Investigation for a national criminal history background check. ~~for convictions described in IC 20-26-5-11.~~ The department shall respond to the request in conformity with:

(1) the requirements of 42 U.S.C. 5119a; and

(2) the regulations prescribed by the Attorney General of the United States under 42 U.S.C. 5119a.

(e) This subsection applies to a qualified entity that ~~(1)~~ is not a school corporation or a special education cooperative, or **that** ~~(2)~~ is a school corporation or a special education cooperative and seeks a national criminal history background check for a volunteer. After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the ~~applicant~~ **person who is the subject of a request** has been convicted of:

(1) an offense described in IC 20-26-5-11;

(2) in the case of a foster family home, an offense described in IC 31-27-4-13(a);

(3) in the case of a prospective adoptive home, an offense described in IC 31-19-11-1(c);

(4) any other felony; or

(5) any misdemeanor;

and convey the determination to the requesting qualified entity.

(f) This subsection applies to a qualified entity that:

(1) is a school corporation or a special education cooperative; and

(2) seeks a national criminal history background check to determine whether to employ or continue the employment of a certificated employee or a noncertificated employee of a school corporation or an equivalent position with a special education cooperative.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department may exchange identification records concerning convictions for offenses described in IC 20-26-5-11 with the school corporation or special education cooperative solely for purposes of making an employment determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L.92-544, (86 Stat. 1115) (1972).

(g) This subsection applies to a qualified entity (as defined in IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall provide a copy to the public agency. Except as permitted by federal law, the public agency may not share the information contained in the national criminal history background check with a private agency.

SECTION 3. IC 12-19-1-2, AS AMENDED BY P.L.234-2005, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The ~~director of the division, in consultation with the~~ director of the department of child services shall appoint a county director in each county.

(b) The director **of the department of child services** shall appoint each county director:

(1) solely on the basis of merit; and

(2) from eligible lists established by the state personnel department.

(c) Each county director must be a citizen of the United States.

SECTION 4. IC 29-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This article applies to the following:

(1) The business affairs, physical person, and property of every incapacitated person and minor residing in Indiana.

(2) Property located in Indiana of every incapacitated person and minor residing outside Indiana.

(3) Property of every incapacitated person or minor, regardless of where the property is located, coming into the control of a fiduciary who is subject to the laws of Indiana.

(b) Except as provided in subsections (c) through (e), the court has exclusive original jurisdiction over all matters concerning the following:

(1) Guardians.

(2) Protective proceedings under IC 29-3-4.

(c) A juvenile court has exclusive original jurisdiction over matters relating to the following:

(1) Minors described in IC 31-30-1-1.

(2) Matters related to guardians of the person and guardianships of the person described in IC 31-30-1-1(10).

(d) Except as provided in subsection (c), courts with child custody jurisdiction under:

(1) IC 31-14-10;

(2) IC 31-17-2-1; or

(3) **IC 31-21-5 (or** IC 31-17-3-3 **before its repeal);**

have original and continuing jurisdiction over custody matters relating to minors.

(e) A mental health division of a superior court under IC 33-33-49 has jurisdiction concurrent with the court in mental health proceedings under IC 12-26 relating to guardianship and protective orders.

(f) Jurisdiction under this section is not dependent on issuance or service of summons.

SECTION 5. IC 31-9-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Except as otherwise provided, the definitions in this article do not apply to the following:

(1) IC 31-11-3.

(2) **IC 31-21 (or** IC 31-17-3 **before its repeal).**

(3) IC 31-18.

(4) IC 31-19-29.

(5) IC 31-37-23.

SECTION 6. IC 31-9-2-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.3. "Abandoned", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-2.**

SECTION 7. IC 31-9-2-13, AS AMENDED BY HEA 1339-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

(1) Children born out of wedlock to the parties.

(2) Children born or adopted during the marriage of the parties.

(b) "Child", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.

(c) "Child", for purposes of IC 31-19-5, includes an unborn child.

(d) "Child", for purposes of the juvenile law, means:

(1) a person who is less than eighteen (18) years of age;

(2) a person:

(A) who is eighteen (18), nineteen (19), or twenty (20) years of age; and

(B) who either:

(i) is charged with a delinquent act committed before the person's eighteenth birthday; or

(ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or

(3) a person:

(A) who is alleged to have committed an act that would have been murder if committed by an adult;

(B) who was less than eighteen (18) years of age at the time of the alleged act; and

(C) who is less than twenty-one (21) years of age.

(e) "Child", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(f) "Child", for purposes of IC 31-16-12.5, means an individual to whom child support is owed under:

(1) a child support order issued under IC 31-14-10 or IC 31-16-6; or

(2) any other child support order that is enforceable under IC 31-16-12.5.

(g) "Child", for purposes of IC 31-27 and IC 31-32-5, means an individual who is less than eighteen (18) years of age.

(h) "Child", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-3.

SECTION 8. IC 31-9-2-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16.5. "Child care provider", for purposes of ~~IC 31-33-17,~~ **IC 31-33-26,** has the meaning set forth in ~~IC 31-33-17-0.5.~~ **IC 31-33-26-1.**

SECTION 9. IC 31-9-2-16.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16.8. "Child custody determination", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-4.**

SECTION 10. IC 31-9-2-16.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16.9. "Child custody proceeding", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-5.**

SECTION 11. IC 31-9-2-19.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 19.3. "Child welfare agency", for purposes of IC 31-25-2-20.4, means:**

(1) the department of child services; and

(2) a person (as defined in IC 24-4-14-5) that, directly or indirectly, provides:

(A) services to a child or family of a child, for which payment is made, in whole or in part, by the department of child services or a local office of the department of child services;

(B) services to:

(i) a child who is; or

(ii) a family with;

a child at imminent risk of placement (as defined in IC 31-26-5-1) who is referred by the department of child services or a local office of the department of child services to the person for family support or family preservation services; or

(C) assistance to or works in cooperation with the department of child services in the investigations of allegations of possible child abuse or neglect in accordance with IC 31-33.

SECTION 12. IC 31-9-2-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20.5. "Commencement", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-6.**

SECTION 13. IC 31-9-2-22.5, AS AMENDED BY P.L.145-2006, SECTION 183, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22.5. "Conduct a criminal history check", for purposes of IC 31-19, IC 31-26, IC 31-27, IC 31-33, IC 31-34, IC 31-37, and IC 31-39-2-13.5, means to:

(1) request the state police department to:

(A) release or allow inspection of a limited criminal history (as defined in IC 10-13-3-11) and juvenile history data (as defined in IC 10-13-4-4) concerning a person who is **at least fourteen (14) years of age and who is:**

(i) for purposes of IC 31-19, IC 31-26, IC 31-33, IC 31-34, **and** IC 31-37, ~~and IC 31-38-2-13.5,~~ currently residing in a location designated by the department of child services or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location; or

~~(ii) for purposes of IC 31-27, an applicant, or if the applicant is an organization, the director or a manager of a facility where children will be placed, an employee, or a volunteer who has or will have direct contact, on a regular and continuing basis, with children who are under the direct supervision of a person required to be licensed under IC 31-27, and~~

(ii) for purposes of IC 31-27-4-5, a resident of the applicant's household who is at least fourteen (14) years of age; and

(B) conduct a:

(i) ~~national~~ fingerprint based criminal history background check **of both national and state records data bases concerning a person who is at least eighteen (18) years of age** in accordance with **IC 10-13-3-27 and** IC 10-13-3-39; or

(ii) national name based criminal history record check (as defined in IC 10-13-3-12.5) of a person **who is at least eighteen (18) years of age as** described in clause (A) as provided by IC 10-13-3-27.5; ~~and~~

(2) collect each substantiated report of child abuse or neglect reported in a jurisdiction where a probation officer, a caseworker, or the department of child services has reason to believe that a person described in subdivision (1)(A), **or a person for whom a fingerprint based criminal history background check is required under IC 31,** resided **within the previous five (5) years; and**

(3) request information concerning any substantiated report of child abuse or neglect relating to a person described in subdivision (1)(A) that is contained in a national registry of substantiated cases of child abuse or neglect that is established and maintained by the United States Department of Health and Human Services, to the extent that the information is accessible under 42 U.S.C. 16990 and any applicable regulations or policies of the Department of Health and Human Services.

SECTION 14. IC 31-9-2-26, AS AMENDED BY P.L.145-2006, SECTION 184, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. "County office" **or "county office of family and children"** ~~for purposes of IC 31-25 through IC 31-40 and the juvenile law,~~ refers to a county office of ~~family and children.~~ **the department of child services established by IC 31-25-1-1.**

SECTION 15. IC 31-9-2-27, AS AMENDED BY P.L.145-2006, SECTION 185, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) "Court", for purposes of IC 31-15, IC 31-16, and IC 31-17, means the circuit, superior, or other courts of Indiana upon which jurisdiction to enter dissolution decrees has been or may be conferred.

(b) "Court", for purposes of IC 31-16-15, refers to the court having jurisdiction over child support orders.

(c) "Court", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-3.

(d) "Court", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(e) "Court", for purposes of IC 31-27, means a circuit or superior court.

(f) "Court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-7.

SECTION 16. IC 31-9-2-38.5, AS AMENDED BY P.L.145-2006, SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 38.5. "Department", for purposes of IC 31-19 ~~IC 31-25, IC 31-26, IC 31-27, IC 31-28, IC 31-33, IC 31-34, IC 31-38,~~ and **IC 31-25 through** IC 31-40, has the meaning set forth in IC 31-25-2-1.

SECTION 17. IC 31-9-2-44.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 44.8. "Family preservation services", for purposes of IC 31-34-24 and IC 31-37-24, means short term, highly intensive services designed to protect, treat, and support the following:**

(1) A family with a child at risk of placement by enabling the family to remain intact and care for the child at home.

(2) A family that adopts or plans to adopt an abused or neglected child who is at risk of placement or adoption disruption by assisting the family to achieve or maintain a stable, successful adoption of the child.

SECTION 18. IC 31-9-2-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 53. (a) "Home state", for purposes of the Uniform Child Custody Jurisdiction

~~Law~~ **Act** under ~~IC 31-17-3,~~ **IC 31-21,** has the meaning set forth in ~~IC 31-17-3-2.~~ **IC 31-21-2-8.**

(b) "Home state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-5.

SECTION 19. IC 31-9-2-58.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 58.3. "Index", for purposes of IC 31-33-26, means the child protection index established under IC 31-33-26-2.**

SECTION 20. IC 31-9-2-59.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 59.5. "Initial determination", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-9.**

SECTION 21. IC 31-9-2-64.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 64.5. "Issuing court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-10.**

SECTION 22. IC 31-9-2-65 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 65. **(a)** "Issuing state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-11.

(b) "Issuing state", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-11.

SECTION 23. IC 31-9-2-80.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 80.8. "Modification", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-12.**

SECTION 24. IC 31-9-2-89, AS AMENDED BY P.L.145-2006, SECTION 204, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 89. (a) "Person", for purposes of the juvenile law, means:

(1) a human being;
(2) a corporation;
(3) a limited liability company;
(4) a partnership;
(5) an unincorporated association; or
(6) a governmental entity.

(b) "Person", for purposes of section 44.5 of this chapter, means an adult or a minor.

(c) "Person", for purposes of IC 31-27, means an individual who is at least twenty-one (21) years of age, a corporation, a partnership, a voluntary association, or other entity.

(d) "Person", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-13.

SECTION 25. IC 31-9-2-90 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 90. "Person acting as **a** parent", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ **Act** under ~~IC 31-17-3,~~ **IC 31-21,** has the meaning set forth in ~~IC 31-17-3-2.~~ **IC 31-21-2-14.**

SECTION 26. IC 31-9-2-91 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 91. **(a)** "Petitioner" or "obligee", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-14.

(b) "Petitioner", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-15.

SECTION 27. IC 31-9-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 92. "Physical custody", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ **Act** under ~~IC 31-17-3,~~ **IC 31-21,** has the meaning set forth in ~~IC 31-17-3-2.~~ **IC 31-21-2-16.**

SECTION 28. IC 31-9-2-102.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 102.7. "Record", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-17.**

SECTION 29. IC 31-9-2-106, AS AMENDED BY P.L.145-2006, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 106. ~~(a)~~ "Registry", for purposes of IC 31-19-5, refers to the putative father registry established by IC 31-19-5-2.

~~(b) "Registry", for purposes of IC 31-33, refers to the child abuse registry established by the department under IC 31-33-17.~~

SECTION 30. IC 31-9-2-110 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 110. **(a)** "Respondent" or "obligor", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-15.

(b) "Respondent", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-18.

SECTION 31. IC 31-9-2-119 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 119. (a) "State", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ **Act** under ~~IC 31-17-3,~~ **IC 31-21,** has the meaning set forth in ~~IC 31-17-3-2.~~ **IC 31-21-2-19.**

(b) "State", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-21.

(c) "State", for purposes of the Interstate Compact on Adoption Assistance under IC 31-19-29, has the meaning set forth in IC 31-19-29-2.

(d) "State", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

SECTION 32. IC 31-9-2-130.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 130.5. "Tribe", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-20.**

SECTION 33. IC 31-9-2-135, AS ADDED BY P.L.145-2006, SECTION 218, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 135. **(a)** "Warrant", for purposes of IC 31-25-3, IC 31-25-4, IC 31-26-2, IC 31-26-3, IC 31-28-1, IC 31-28-2, and IC 31-28-3, means an instrument that is:

(1) the equivalent of a money payment; and
(2) immediately convertible into cash by the payee for the full face amount of the instrument.

(b) "Warrant", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-21.

SECTION 34. IC 31-17-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. Jurisdiction of a child custody proceeding under:

(1) this chapter, IC 31-17-4, IC 31-17-6, and IC 31-17-7; or
(2) **IC 31-21 (or** IC 31-17-3 **before its repeal);**

shall be determined under **IC 31-21 (or** IC 31-17-3 **before its repeal).**

SECTION 35. IC 31-17-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. If the marriage of the child's parents has been dissolved in another state, the child's maternal or paternal grandparent may seek visitation rights if:

(1) the custody decree entered in the action for dissolution of marriage does not bind the grandparent under

IC 31-21-3-1 (or IC 31-17-3-12 **before its repeal);** and

(2) an Indiana court would have jurisdiction under **IC 31-21-5-1 (or** IC 31-17-3-3 **before its repeal), IC 31-21-5-2, or IC 31-21-5-3** (or IC 31-17-3-14 **before its repeal)** to grant visitation rights to the grandparent in a modification decree.

SECTION 36. IC 31-19-2-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7.3. A court may not waive any criminal history check requirements set forth in this chapter.**

SECTION 37. IC 31-19-7-1, AS AMENDED BY P.L.145-2006, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) ~~Except:~~

~~(1) for:~~

~~(A) a child sought to be adopted by a stepparent;~~

~~(B) a child sought to be adopted by a grandparent, an aunt, or an uncle; or~~

~~(C) a child received by the petitioner for adoption from an agency outside Indiana with the written consent of the department; or~~

~~(2) if the court in its discretion, after a hearing held upon proper notice, has waived the requirement for prior written approval;~~

A child may not be placed in a proposed adoptive home without the prior written approval of a licensed child placing agency or county office of family and children approved for that purpose by the department.

(b) Except as provided in subsection (d), before giving prior written approval for placement in a proposed adoptive home of a child, ~~who is under the care and supervision of:~~

~~(1) the juvenile court; or~~

~~(2) the department of child services;~~

a licensed child placing agency or the department of child services shall conduct a criminal history check (as defined in IC 31-9-2-22.5) concerning the proposed adoptive parent and any other person who is currently residing in the proposed adoptive home.

(c) The prospective adoptive parent shall pay the fees and other costs of the criminal history check required under this section.

(d) A licensed child placing agency or the department of child services is not required to conduct a criminal history check (as defined in IC 31-9-2-22.5) if a prospective adoptive parent provides the licensed child placing agency or county office of family and children with the results of a criminal history check conducted:

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the licensed child placing agency or county office of family and children provides written approval for the placement.

SECTION 38. IC 31-19-8-1, AS AMENDED BY P.L.145-2006, SECTION 248, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. An adoption may be granted in Indiana only after:

(1) the court has heard the evidence; and

(2) **except as provided in section 2(c) of this chapter,** a period of supervision, as described in section 2 of this chapter, by a licensed child placing agency or **the** county office of family and children approved for that purpose by the department.

SECTION 39. IC 31-19-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) **Except as provided in subsection (c),** the period of supervision required by section 1 of this chapter may be before or after the filing of a petition for adoption, or both.

(b) The length of the period of supervision is within the sole discretion of the court hearing the petition for adoption.

(c) A court hearing a petition for adoption of a child may waive the period of supervision under subsection (a) if one (1) of the petitioners is a stepparent or grandparent of the child and the court waives the report under section 5(c) of this chapter.

SECTION 40. IC 31-19-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) **Except as provided in subsection (c),** not more than sixty (60) days from the date of reference of a petition for adoption to each appropriate agency, each agency **or the county office of family and children** shall submit to the court a written report of ~~and~~ the ~~agency's~~ investigation **and** recommendation as to the advisability of the adoption.

(b) The agency's **or county office of family and children's** report and recommendation:

(1) shall be filed with the adoption proceedings; and

(2) become a part of the proceedings.

(c) A court hearing a petition for adoption of a child:

(1) may waive the report required under subsection (a) if one (1) of the petitioners is a stepparent or grandparent of the child and the court waives the period of supervision under section 2(c) of this chapter; and

(2) may require the county office of family and children or a child placing agency to:

(A) investigate any matter related to an adoption; and

(B) report to the court the results of the investigation.

(d) If the court waives the reports required under subsection (a), the court shall require the county office of family and children or a child placing agency to:

(1) conduct a criminal history check under IC 31-19-2-7.5; and

(2) report to the court the results of the criminal history check.

SECTION 41. IC 31-19-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The agency's **or county office of family and children's** report must, to the extent possible, include the following:

(1) The former environment and antecedents of the child.

(2) The fitness of the child for adoption.

(3) Whether the child is classified as hard to place:

(A) because of the child's ethnic background, race, color, language, physical, mental, or medical disability, or age; or

(B) because the child is a member of a sibling group that should be placed in the same home.

(4) The suitability of the proposed home for the child.

(b) The report may not contain any of the following:

(1) Information concerning the financial condition of the parents.

(2) A recommendation that a request for a subsidy be denied in whole or in part due to the financial condition of the parents.

(c) The criminal history information required under IC 31-19-2-7.5 must accompany the report.

SECTION 42. IC 31-19-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The court shall summarily consider the agency's **or county office of family and children's** report. If the court finds that further investigation or further supervision is necessary, the court shall continue the case to a later date that the court considers advisable for final determination. At that time the court shall determine the case.

SECTION 43. IC 31-19-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The report and recommendation of the agency **or county office of family and children** are not binding on the court but are advisory only.

SECTION 44. IC 31-19-11-1, AS AMENDED BY P.L.140-2006, SECTION 17, AS AMENDED BY P.L.173-2006,

SECTION 17, AND AS AMENDED BY P.L.145-2006, SECTION 253, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

(1) the adoption requested is in the best interest of the child;

(2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;

(3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;

(4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the ~~*department's*~~ *state department of health's* affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery as a felony (IC 35-42-2-1).

(7) Domestic battery (IC 35-42-2-1.3).

~~(7)~~ **(8)** Aggravated battery (IC 35-42-2-1.5).

~~(8)~~ **(9)** Kidnapping (IC 35-42-3-2).

~~(9)~~ **(10)** Criminal confinement (IC 35-42-3-3).

~~(10)~~ **(11)** A felony sex offense under IC 35-42-4.

~~(11)~~ **(12)** Carjacking (IC 35-42-5-2).

~~(12)~~ **(13)** Arson (IC 35-43-1-1).

~~(13)~~ **(14)** Incest (IC 35-46-1-3).

~~(14)~~ **(15)** Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

~~(15)~~ **(16)** Child selling (IC 35-46-1-4(d)).

~~(16)~~ **(17)** A felony involving a weapon under IC 35-47 or IC 35-47.5.

~~(17)~~ **(18)** A felony relating to controlled substances under IC 35-48-4.

~~(18)~~ **(19)** An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

~~(19)~~ **(20)** A felony that is substantially equivalent to a felony listed in subdivisions (1) through ~~(18)~~ **(19)** for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), ~~(11),~~ (12), **(13),** ~~(16),~~ ~~or~~ (17), or **(18), or** its equivalent under subdivision ~~(19),~~ **(20),** if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~*an*~~ *a sex* offender (as defined in ~~*IC 5-2-12-4).*~~ IC *11-8-8-5).*

SECTION 45. IC 31-21 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

ARTICLE 21. UNIFORM CHILD CUSTODY JURISDICTION ACT

Chapter 1. Applicability

Sec. 1. This article does not apply to:

(1) an adoption proceeding; or

(2) a proceeding pertaining to the authorization of emergency medical care for a child.

Sec. 2. (a) A child custody proceeding pertaining to an Indian child, as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), is not subject to this article to the extent that it is governed by the Indian Child Welfare Act.

(b) An Indiana court shall treat a tribe as if the tribe were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.

(c) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this article must be recognized and enforced under IC 31-21-6.

Sec. 3. (a) An Indiana court shall treat a foreign country as if the foreign country were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.

(b) Except as otherwise provided in subsection (c), a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standard of this article must be recognized and enforced under IC 31-21-6.

(c) An Indiana court need not apply this article if the child custody law of a foreign country violates the fundamental principles of human rights.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Abandoned" means left without provision for reasonable and necessary care or supervision.

Sec. 3. "Child" means a person who is less than eighteen (18) years of age.

Sec. 4. (a) "Child custody determination" means a judgment, decree, or other court order providing for:

(1) legal custody;

(2) physical custody; or

(3) visitation;

with respect to a child.

(b) The term does not include an order relating to child support or other monetary obligation of a person.

Sec. 5. (a) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for:

(1) dissolution of marriage or legal separation;

(2) child abuse or neglect;

(3) guardianship;

(4) paternity;

(5) termination of parental rights; and

(6) protection from domestic violence;

in which the issue of child custody or visitation may appear.

(b) The term does not include a proceeding involving

juvenile delinquency, contractual emancipation, or enforcement of child custody under IC 31-21-6.

Sec. 6. "Commencement" means the filing of the first pleading in a proceeding.

Sec. 7. "Court" means an entity authorized by state law to establish, enforce, or modify a child custody determination.

Sec. 8. "Home state" means the state in which a child lived with:

(1) a parent; or

(2) a person acting as a parent;

for at least six (6) consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six (6) months of age, the term means the state in which the child lived since birth with a parent or person acting as a parent. A period of temporary absence of the parent or person acting as a parent is part of the period.

Sec. 9. "Initial determination" means the first child custody determination concerning a child.

Sec. 10. "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this article.

Sec. 11. "Issuing state" means the state in which a child custody determination is made.

Sec. 12. "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, regardless of whether the determination is made by the court that made the previous determination.

Sec. 13. "Person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a government, a governmental subdivision, an agency or instrumentality, a public corporation, or any other legal or commercial entity.

Sec. 14. "Person acting as a parent" means a person, other than a parent, who:

(1) has physical custody of the child or has had physical custody for a period of at least six (6) consecutive months, including a temporary absence, within one (1) year immediately before the commencement of a child custody proceeding; and

(2) has been awarded legal custody by a court or claims a right to legal custody under Indiana law.

Sec. 15. "Petitioner" means a person who seeks enforcement of:

(1) an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction; or

(2) a child custody determination.

Sec. 16. "Physical custody" means the physical care and supervision of a child.

Sec. 17. "Record" means information that is:

(1) inscribed on a tangible medium; or

(2) stored in an electronic or other medium;

and that is retrievable in a perceivable form.

Sec. 18. "Respondent" means a person against whom a proceeding has been commenced for enforcement of:

(1) an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction; or

(2) a child custody determination.

Sec. 19. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or an insular possession subject to the jurisdiction of the United States.

Sec. 20. "Tribe" means an Indian tribe or band or Alaskan Native village that is:

(1) recognized by federal law; or

(2) formally acknowledged by a state.

Sec. 21. "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

Chapter 3. Procedural Considerations

Sec. 1. A child custody determination made by an Indiana court that has jurisdiction under this article binds each person who has:

(1) been served with notice in accordance with Indiana law;

(2) been notified in accordance with section 3 of this chapter; or

(3) submitted to the jurisdiction of the court;

and who has been given an opportunity to be heard. A child custody determination described in this section is conclusive as to the decided issues of law and fact except to the extent the determination is modified.

Sec. 2. If a question of existence or exercise of jurisdiction under this article is raised in a child custody proceeding, the question, on a request of a party, must be given priority on the court's calendar and handled expeditiously.

Sec. 3. (a) Notice required for the exercise of jurisdiction when a person is outside Indiana may be given in a manner prescribed by:

(1) Indiana law for service of process; or

(2) the law of the state in which the service is made.

Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by:

(1) Indiana law; or

(2) the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Sec. 4. A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in Indiana for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

Sec. 5. A person who is subject to personal jurisdiction in Indiana on a basis other than physical presence is not immune from service of process in Indiana. A person present in Indiana who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

Sec. 6. The immunity granted by section 4 of this chapter does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this article committed by an individual while present in Indiana.

Chapter 4. Communication and Cooperation Between Courts

Sec. 1. An Indiana court may communicate with a court in another state concerning a proceeding arising under this article.

Sec. 2. The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, the parties must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

Sec. 3. Communication between courts regarding:

(1) schedules;

(2) calendars;

(3) court records; and

(4) similar matters;

may occur without informing the parties. A record need not be made of the communication.

Sec. 4. A record must be made of a communication under sections 1 and 2 of this chapter. The parties must be:

(1) promptly informed of the communication; and
(2) granted access to the record.

Sec. 5. In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in Indiana for testimony taken in another state. The court on its own motion may:
(1) order that the testimony of a person be taken in another state; and
(2) prescribe the manner in which and the terms on which the testimony is taken.

Sec. 6. An Indiana court may permit a person residing in another state to be deposed or to testify by:
(1) telephone;
(2) audiovisual means; or
(3) other electronic means;
before a designated court or another location in that state. An Indiana court shall cooperate with courts in other states in designating an appropriate location for the deposition or testimony.

Sec. 7. Documentary evidence transmitted from another state to an Indiana court by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Sec. 8. An Indiana court may request the appropriate court of another state to do the following:
(1) Hold an evidentiary hearing.
(2) Order a person to produce or give evidence under the procedures of the other state.
(3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding.
(4) Forward to the Indiana court:
(A) a certified copy of the transcript of the record of the hearing;
(B) the evidence otherwise presented; and
(C) an evaluation prepared in compliance with the request.
(5) Order:
(A) a party to a child custody proceeding; or
(B) any person having physical custody of the child;
to appear in the proceeding with or without the child.

Sec. 9. On the request of a court of another state, an Indiana court may:
(1) hold a hearing; and
(2) enter an order described in section 8 of this chapter.

Sec. 10. Travel and other necessary and reasonable expenses incurred under sections 8 and 9 of this chapter may be assessed against the parties according to Indiana law.

Sec. 11. An Indiana court shall preserve the:
(1) pleadings;
(2) orders;
(3) decrees;
(4) records of hearings;
(5) evaluations; and
(6) other pertinent records;
with respect to a child custody proceeding until the child becomes eighteen (18) years of age. On appropriate request by a court or law enforcement official of another state, the Indiana court shall forward a certified copy of the records to the court of the other state.

Chapter 5. Jurisdiction

Sec. 1. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court has jurisdiction to make an initial child custody determination only if one (1) of the following applies:
(1) Indiana is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six (6) months before the commencement of the proceeding, and the child is absent from Indiana but a parent or person acting as a parent continues to live in Indiana.
(2) A court of another state does not have jurisdiction under subdivision (1) or a court of the home state of the child has declined to exercise jurisdiction on the ground that Indiana is the more appropriate forum under section 8 or 9 of this chapter, and:
(A) the child and the child's parents, or the child and at least one (1) parent or person acting as a parent, have a significant connection with Indiana other than mere physical presence; and
(B) substantial evidence is available in Indiana concerning the child's care, protection, training, and personal relationships.
(3) All courts having jurisdiction under subdivision (1) or (2) have declined to exercise jurisdiction on the ground that an Indiana court is the more appropriate forum to determine the custody of the child under section 8 or 9 of this chapter.
(4) No court of any other state would have jurisdiction under the criteria specified in subdivision (1), (2), or (3).

(b) The jurisdictional requirements described in this section provide the exclusive jurisdictional basis for making a child custody determination by an Indiana court.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

Sec. 2. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court that has made a child custody determination consistent with section 1 or 3 of this chapter has exclusive, continuing jurisdiction over the determination until:
(1) an Indiana court determines that:
(A) neither:
(i) the child;
(ii) the child's parents; nor
(iii) any person acting as a parent;
has a significant connection with Indiana; and
(B) substantial evidence is no longer available in Indiana concerning the child's care, protection, training, and personal relationships; or
(2) an Indiana court or a court of another state determines that:
(A) the child;
(B) the child's parents; and
(C) any person acting as a parent;
do not presently reside in Indiana.

(b) An Indiana court that:
(1) has made a child custody determination; and
(2) does not have exclusive, continuing jurisdiction under this section;
may modify the determination only if the Indiana court has jurisdiction to make an initial determination under section 1 of this chapter.

Sec. 3. Except as provided in section 4 of this chapter, an Indiana court may not modify a child custody determination made by a court of another state unless an Indiana court has jurisdiction to make an initial determination under section 1(a)(1) or 1(a)(2) of this chapter and:
(1) the court of the other state determines that:
(A) it no longer has exclusive, continuing jurisdiction under section 2 of this chapter; or
(B) an Indiana court would be a more convenient forum under section 8 of this chapter; or
(2) an Indiana court or a court of the other state determines that:
(A) the child;
(B) the child's parents; and
(C) any person acting as a parent;

do not presently reside in the other state.

Sec. 4. (a) An Indiana court has temporary emergency jurisdiction if the child is present in Indiana and:

(1) the child has been abandoned; or

(2) it is necessary in an emergency to protect the child because:

(A) the child;

(B) the child's sibling; or

(C) the child's parent;

is subjected to or threatened with mistreatment or abuse.

(b) If:

(1) there is no previous child custody determination that is entitled to be enforced under this article; and

(2) a child custody proceeding has not been commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter;

a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 1 through 3 of this chapter.

(c) If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter, a child custody determination made under this section becomes a final determination, and, if it so provides, Indiana becomes the home state of the child.

(d) If:

(1) there is a previous child custody determination that is entitled to be enforced under this article; or

(2) a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter;

an order issued by an Indiana court under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 1 through 3 of this chapter.

(e) The order issued in Indiana remains in effect until an order is obtained from the other state within the period specified or the period expires.

(f) An Indiana court that has been asked to make a child custody determination under this section, on being informed that:

(1) a child custody proceeding has been commenced in; or

(2) a child custody determination has been made by;

a court of a state having jurisdiction under sections 1 through 3 of this chapter, shall immediately communicate with the other court.

(g) An Indiana court that is exercising jurisdiction under sections 1 through 3 of this chapter, on being informed that:

(1) a child custody proceeding has been commenced in; or

(2) a child custody determination has been made by;

a court of another state under a statute similar to this section, shall immediately communicate with the court of the other state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Sec. 5. (a) Before a child custody determination is made under this article, notice and an opportunity to be heard in accordance with the standards of IC 31-21-3-3 must be given to the following persons:

(1) Persons entitled to notice under Indiana law as in child custody proceedings between residents of Indiana.

(2) A parent whose parental rights have not been previously terminated.

(3) Any person having physical custody of the child.

(b) This article does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this article are governed by Indiana law in the same manner as in child custody proceedings between Indiana residents.

Sec. 6. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this article, unless the proceeding:

(1) has been terminated; or

(2) is stayed by the court of the other state because an Indiana court is a more convenient forum under section 8 of this chapter.

(b) Except as otherwise provided in section 4 of this chapter, an Indiana court, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties under sections 10 through 13 of this chapter. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this article, the Indiana court shall:

(1) stay its proceeding; and

(2) communicate with the court of the other state.

If the court of the state having jurisdiction substantially in accordance with this article does not determine that the Indiana court is a more appropriate forum, the Indiana court shall dismiss the proceeding.

Sec. 7. In a proceeding to modify a child custody determination, an Indiana court shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the Indiana court may:

(1) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(2) enjoin the parties from continuing with the proceeding for enforcement; or

(3) proceed with the modification under conditions the Indiana court considers appropriate.

Sec. 8. (a) An Indiana court that has jurisdiction under this article to make a child custody determination may decline to exercise its jurisdiction at any time if the Indiana court determines that:

(1) the Indiana court is an inconvenient forum under the circumstances; and

(2) a court of another state is a more appropriate forum.

The issue of inconvenient forum may be raised on motion of a party, the court's own motion, or request of another court.

(b) Before determining whether an Indiana court is an inconvenient forum, the Indiana court shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the Indiana court shall allow the parties to submit information and shall consider the relevant factors, including the following:

(1) Whether domestic violence has occurred and is likely to continue in the future and which state is best able to protect the parties and the child.

(2) The length of time the child has resided outside Indiana.

(3) The distance between the Indiana court and the court in the state that would assume jurisdiction.

(4) The relative financial circumstances of the parties.

(5) An agreement of the parties as to which state should

assume jurisdiction.

(6) The nature and location of the evidence required to resolve the pending litigation, including the child's testimony.

(7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.

(8) The familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If an Indiana court determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, the Indiana court:

(1) shall stay the proceedings on condition that a child custody proceeding be promptly commenced in another designated state; and

(2) may impose any other condition the Indiana court considers just and proper.

(d) An Indiana court may decline to exercise its jurisdiction under this article if a child custody determination is incidental to an action for dissolution of marriage or another proceeding while still retaining jurisdiction over the dissolution of marriage or other proceeding.

Sec. 9. (a) Except as otherwise provided in section 4 of this chapter or by any other Indiana law, if an Indiana court has jurisdiction under this article because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) the child's parents and any person acting as a parent have acquiesced in the exercise of jurisdiction;

(2) a court of the state otherwise having jurisdiction under sections 1 through 3 of this chapter determines that Indiana is a more appropriate forum under section 8 of this chapter; or

(3) no court of any other state would have jurisdiction under the criteria specified in sections 1 through 3 of this chapter.

(b) If an Indiana court declines to exercise its jurisdiction under subsection (a), the Indiana court may fashion an appropriate remedy to:

(1) ensure the safety of the child; and

(2) prevent a repetition of the unjustifiable conduct;

including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 1 through 3 of this chapter.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction under subsection (a), the court shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses, including:

(1) costs;

(2) communication expenses;

(3) attorney's fees;

(4) investigative fees;

(5) expenses for witnesses;

(6) travel expenses; and

(7) child care during the course of the proceedings;

unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against the state unless authorized by law other than this article.

Sec. 10. (a) Subject to local law providing for the confidentiality of procedures, addresses, and other identifying information in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall provide information, under oath, regarding:

(1) the child's present address or whereabouts and the places where the child has lived during the immediately preceding five (5) years; and

(2) the names and present addresses of the persons with whom the child has lived during that period.

(b) The pleading or affidavit must state the following:

(1) Whether the party has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify:

(A) the court;

(B) the case number; and

(C) the date of the child custody determination, if any.

(2) Whether the party knows of a proceeding that may affect the current proceeding, including proceedings for enforcement and proceedings relating to:

(A) domestic violence;

(B) protective orders;

(C) termination of parental rights; and

(D) adoptions;

and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Whether the party knows the names and addresses of a person not a party to the proceeding who:

(A) has physical custody of the child; or

(B) claims rights of legal custody or physical custody of, or visitation with, the child;

and, if so, the names and addresses of the persons.

(c) If the information required by subsection (a) is not furnished, the court, on motion of a party or its own motion, may stay the proceeding until the information is furnished.

Sec. 11. If the declaration as to any of the items described in section 10(b)(1) through 10(b)(3) of this chapter is in the affirmative, the party shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to:

(1) the court's jurisdiction; and

(2) the disposition of the case.

Sec. 12. Each party has a continuing duty to inform the court of a proceeding in Indiana or any other state that may affect the current proceeding.

Sec. 13. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court:

(1) takes into consideration the health, safety, or liberty of the party or child; and

(2) determines that the disclosure is in the interest of justice.

Sec. 14. (a) In a child custody proceeding in Indiana, the court may order a party to the proceeding who is in Indiana to appear before the court in person with or without the child. The court may order any person who:

(1) is in Indiana; and

(2) has physical custody or control of the child;

to appear in person with the child.

(b) If a party to a child custody proceeding whose presence is desired by the court is outside Indiana, the court may order that a notice given under IC 31-21-3-3 include a statement:

(1) directing the party to appear in person with or without the child; and

(2) informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter an order necessary to ensure the safety of:

(1) the child; and

(2) any person ordered to appear under this section.

(d) If a party to a child custody proceeding who is outside

Indiana:

(1) is directed to appear under subsection (b); or

(2) desires to appear personally before the court with or without the child;

the court may require another party to pay reasonable and necessary travel and other expenses of the party who appears and of the child.

Chapter 6. Enforcement

Sec. 1. Under this chapter, an Indiana court may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

Sec. 2. (a) An Indiana court shall recognize and enforce a child custody determination of a court of another state if the court of another state exercised jurisdiction in substantial conformity with this article or the determination:

(1) was made under factual circumstances meeting the jurisdictional standards of this article; and

(2) has not been modified in accordance with this article.

(b) An Indiana court may use a remedy available under any other Indiana law to enforce a child custody determination made by a court of another state. The remedies provided in this article:

(1) are cumulative; and

(2) do not affect the availability of other remedies to enforce a child custody determination.

Sec. 3. (a) An Indiana court that does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(1) a visitation schedule made by a court of another state; or

(2) the visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(b) If an Indiana court makes an order under subsection (a)(2), the Indiana court shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in IC 31-21-5. The order remains in effect until:

(1) an order is obtained from the court having jurisdiction; or

(2) the period expires.

Sec. 4. (a) A child custody determination issued by a court of another state may be registered in Indiana, with or without a simultaneous request for enforcement, by sending the following to the appropriate Indiana court:

(1) A letter or other document requesting registration.

(2) Two (2) copies, including one (1) certified copy, of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified.

(3) Except as otherwise provided in section 13 of this chapter:

(A) the name and address of the person seeking registration; and

(B) the name of a parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(b) On receipt of the documents required by subsection (a), the registering court shall:

(1) cause the determination to be filed as a foreign judgment, together with one (1) copy of the accompanying documents and information, regardless of their form; and

(2) serve notice on each person named under subsection (a)(3) and provide the person with an opportunity to contest the registration in accordance with this section.

(c) The notice required by subsection (b)(2) must state the following:

(1) A registered determination is enforceable as of the date of the registration in the same manner as a child custody determination issued by an Indiana court.

(2) A hearing to contest the validity of the registered determination must be requested not more than twenty (20) days after service of notice.

(3) Failure to contest the registration shall:

(A) result in confirmation of the child custody determination; and

(B) preclude further contest of that determination with respect to a matter that may have otherwise been asserted.

Sec. 5. (a) A person seeking to contest the validity of a registered order must request a hearing not more than twenty (20) days after service of the notice. At the hearing, the court shall confirm the registered order unless the person contesting the registration establishes that:

(1) the issuing court did not have jurisdiction under IC 31-21-5;

(2) the child custody determination sought to be registered has been:

(A) vacated;

(B) stayed; or

(C) modified;

by a court having jurisdiction to do so under IC 31-21-5; or

(3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which registration is sought.

(b) If a timely request for a hearing to contest the validity of the registration is not made:

(1) the registration is confirmed as a matter of law; and

(2) the person requesting registration and each person served must be notified of the confirmation.

(c) Confirmation of a registered order whether:

(1) by operation of law; or

(2) after notice and hearing;

precludes further contest of the order with respect to a matter that may have been asserted at the time of registration.

Sec. 6. (a) An Indiana court may grant a relief normally available under Indiana law to enforce a registered child custody determination made by a court of another state.

(b) An Indiana court shall recognize and enforce, but may not modify, except in accordance with IC 31-21-5, a registered child custody determination of a court of another state.

Sec. 7. If a proceeding for enforcement under this article is commenced in an Indiana court and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under IC 31-21-5, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Sec. 8. (a) A petition under this article must be verified. Certified copies of:

(1) the orders sought to be enforced; and

(2) an order confirming registration;

must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination must state the following:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied on in exercising jurisdiction and, if so, what the basis was.

(2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this article and, if so, identify:

(A) the court;

(B) the case number; and

(C) the nature of the proceeding.

(3) Whether a proceeding has been commenced that may affect the current proceeding, including proceedings relating to:

(A) domestic violence;

(B) protective orders;

(C) termination of parental rights; and

(D) adoptions;

and, if so, identify the court, the case number, and the nature of the proceeding.

(4) The present physical address of the child and the respondent, if known.

(5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(6) If the child custody determination has been registered and confirmed under sections 4 and 5 of this chapter, the date and place of registration.

Sec. 9. (a) On the filing of a petition, the court:

(1) shall issue an order directing the respondent to appear in person with or without the child at a hearing; and

(2) may enter an order necessary to ensure the safety of the parties and the child.

The hearing must be held on the next judicial day after service of the order unless holding the hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(b) An order issued under subsection (a) must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under section 15 of this chapter and may schedule a hearing to determine whether further relief is appropriate unless the respondent appears and establishes that:

(1) the child custody determination has not been registered and confirmed under sections 4 and 5 of this chapter and that:

(A) the issuing court did not have jurisdiction under IC 31-21-5;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction under IC 31-21-5; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under sections 4 and 5 of this chapter but has been vacated, stayed, or modified by a court of a state having jurisdiction under IC 31-21-5.

Sec. 10. Except as otherwise provided in section 13 or 14 of this chapter, the petition and order must be served, by a method authorized by Indiana law, on the respondent and any person who has physical custody of the child.

Sec. 11. Unless the court issues a temporary emergency order under IC 31-21-5-4 on a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) the child custody determination has not been registered and confirmed under sections 4 and 5 of this chapter and that:

(A) the issuing court did not have jurisdiction under IC 31-21-5;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under IC 31-21-5; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under sections 4 and 5 of this chapter but has been vacated, stayed, or modified by a court of a state having jurisdiction under IC 31-21-5.

Sec. 12. (a) The court:

(1) shall award the fees, costs, and expenses authorized under section 15 of this chapter; and

(2) may grant additional relief, including a request for the assistance of law enforcement officials, and set a hearing to determine whether additional relief is appropriate.

(b) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(c) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this chapter.

Sec. 13. (a) On the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to:

(1) suffer serious physical harm; or

(2) be removed from Indiana.

(b) If the court, on the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from Indiana, the court may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless hearing the petition on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by section 8(b) of this chapter.

Sec. 14. (a) A warrant to take physical custody of a child must:

(1) recite the facts on which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(2) direct law enforcement officers to take physical custody of the child immediately; and

(3) provide for the placement of the child pending final relief.

(b) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(c) A warrant to take physical custody of a child is enforceable throughout Indiana. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, the court may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(d) The court may impose conditions on the placement of a child to ensure the appearance of the child and the child's custodian.

Sec. 15. (a) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including:

(1) costs;

(2) communication expenses;

(3) attorney's fees;

(4) investigative fees;

(5) expenses for witnesses;

(6) travel expenses; and

(7) child care during the course of the proceedings;

unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this article.

Sec. 16. An Indiana court shall accord full faith and credit to an order issued by another state and consistent with this article that enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction under IC 31-21-5.

Sec. 17. An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under IC 31-21-5-4, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

Sec. 18. (a) In a case arising under this article or involving the Hague Convention on the Civil Aspects of International Child Abduction, a prosecuting attorney or other appropriate public official may take a lawful action, including resorting to a proceeding under this article or any other available civil proceeding, to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

(1) an existing child custody determination;

(2) a request to do so from a court in a pending child custody proceeding;

(3) a reasonable belief that a criminal statute has been violated; or

(4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) A prosecuting attorney or other appropriate public official acting under this section acts on behalf of the court and may not represent a party.

Sec. 19. At the request of a prosecuting attorney or other appropriate public official acting under section 18 of this chapter, a law enforcement officer may:

(1) take a lawful action reasonably necessary to locate a child or a party; and

(2) assist a prosecuting attorney or appropriate public official with responsibilities under section 18 of this chapter.

Sec. 20. If the respondent is not the prevailing party, the court may assess against the respondent the direct expenses and costs incurred by the prosecuting attorney or other appropriate public official and law enforcement officers under section 18 or 19 of this chapter.

Chapter 7. Miscellaneous Provisions

Sec. 1. In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 2. If a provision of this article or its application to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Sec. 3. A motion or other request for relief made:

(1) in a child custody proceeding; or

(2) to enforce a child custody determination;

that was commenced before July 1, 2007, is governed by the law in effect at the time the motion or other request was made.

SECTION 46. IC 31-25-2-20.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20.4. (a) The department shall establish at least three (3) citizen review panels in accordance with the requirements of the federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106a.**

(b) A citizen review panel consists of volunteer members who broadly represent the community in which the panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

(c) The department shall appoint the citizen review panels in the following manner:

(1) One (1) panel must be a community child protection team established in a county under IC 31-33-3-1, selected by the director of the department with the consent of the team.

(2) One (1) panel must be either:

(A) the statewide child fatality review committee established under IC 31-33-25-6; or

(B) a local child fatality review team established under IC 31-33-24-6;

selected by the director of the department with the consent of the committee or team.

(3) One (1) panel must be a foster care advisory panel consisting of at least five (5) and not more than eleven (11) members, selected to the extent feasible from the membership of any foster care advisory group previously established or recognized by the department. If the panel consists of seven (7) or fewer members, the panel must include at least one (1) foster parent licensed by the department through a county office and one (1) foster parent licensed by the department through a child placing agency licensed under IC 31-27-6. If the panel consists of more than seven (7) members, the panel must include two (2) foster parents licensed by the department through a county office and two (2) foster parents licensed by the department through a child placing agency licensed under IC 31-27-6. Additional members of the panel must include one (1) or more individuals who are employed by a child placing agency licensed under IC 31-27-6 and who provide services to foster families and children placed by the department in out-of-home placements, and may include other representatives of child welfare service providers or persons who provide training to current or prospective foster parents. All members of this panel must be individuals who are not employees of the department.

(4) The membership of any additional citizen review panels established under this section shall be determined by the director of the department, consistent with the guidelines for panel membership stated in subsection (b) and the purposes and functions of the panels as described in this section.

(5) Each citizen review panel shall be appointed for a term of three (3) years beginning July 1, 2007. Upon expiration of the term of the panel described in subdivision (1), the director of the department shall select a community child protection team established in a different county for the succeeding term. Upon expiration of the term of the panel described in

subdivision (2), the director of the department shall select a different fatality review team, or committee, if available, for the succeeding term. Panels appointed under subdivision (3) or (4) may be reappointed for successive terms, in the discretion of the director of the department. The director may appoint individuals as needed to fill vacancies that occur during the term of any panel appointed under subdivision (3) or (4).

(d) A citizen review panel shall evaluate the extent to which a child welfare agency is effectively discharging the agency's child protection responsibilities by examining:

(1) the policies and procedures of child welfare agencies;

(2) if appropriate, specific child protective services cases; and

(3) other criteria the citizen review panel considers important to ensure the protection of children.

(e) Each citizen review panel shall:

(1) meet at least one (1) time every three (3) months; and

(2) prepare and make available to the department and the public an annual report that contains a summary of the activities of the citizen review panel.

(f) The department shall, not more than six (6) months after the date the department receives a report from a citizen review panel under subsection (e), submit to the citizen review panel a written response indicating whether and how the department will incorporate the recommendations of the citizen review panel. The department shall at the same time provide appropriate child welfare agencies with copies of the department's written response.

(g) A child welfare agency shall make all reports and other materials in the child welfare agency's possession available to a citizen review panel established under this section, including any reports and materials that the child welfare agency has received from other agencies.

(h) A member of a citizen review panel may not disclose to a person or government official any identifying information that is provided to the citizen review panel about:

(1) a specific child protective services case or child welfare agency case;

(2) a child or member of the child's family who is the subject of a child protective services investigation; or

(3) any other individuals identified in confidential reports, documents, or other materials.

(i) If a member of a citizen review panel violates subsection (h), the department may remove the member from the citizen review panel.

(j) A child welfare agency shall cooperate and work with each citizen review panel established under this section.

SECTION 47. IC 31-27-3-3, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) An applicant must apply for a child caring institution license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) The applicant must submit with the application a statement attesting the following:

(1) That the applicant has not been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) That the applicant has not been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) **The department, on behalf of an applicant, or, at the discretion of the department,** an applicant, shall

~~(1)~~ conduct a criminal history check of **the following:**

~~(A)~~ **(1)** Each individual who is an applicant. ~~and~~

~~(B)~~ **(2)** The director or manager of a facility where children will be placed. ~~and~~

~~(2) submit to the department the result of each criminal history check conducted under this subsection.~~

(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(e) **If the applicant conducts a criminal history check under subsection (d),** the applicant shall: ~~do the following:~~

~~(1) Conduct a criminal history check of the applicant's:~~

~~(A) employees; and~~

~~(B) volunteers;~~

~~who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant.~~

~~(2)~~ **(1)** maintain records of ~~each~~ **the information it receives concerning each individual who is the subject of a** criminal history check; **and**

(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3).

~~(f) An applicant is required to conduct a criminal history check required under subsection (c)(1) only one (1) time.~~

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date the person is employed or assigned as a volunteer. However, a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d)(3). If a person described in this subsection has been the subject of a criminal history check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

(i) An applicant or licensee may provisionally employ an individual or assign a volunteer described in subsection (d)(3) for whom a criminal history check is required under subsection (d)(3) during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the

applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (d)(3), the applicant or licensee shall consider the following:

(1) The training time required by an employee or a volunteer.

(2) The safety and security of the children under the supervision of the applicant or licensee.

(3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.

(4) The staffing concerns of the applicant or licensee.

(5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

~~(g)~~ **(j)** The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective services investigation report.

(k) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

SECTION 48. IC 31-27-3-5, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, ~~an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant~~ **or the director or manager of a facility where children will be placed by the applicant,** of:

(A) a felony; ~~or~~

(B) a misdemeanor related to the health and safety of a child;

(C) a misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal); or

(D) a misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that the applicant previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

~~(b)~~ **(d)** Notwithstanding subsection ~~(a)(2),~~ **(a) or (b),** if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of, **or a determination of child abuse or neglect by,** an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of, **or determination of child abuse or neglect by,** the former employee or former volunteer does not ~~require~~ **constitute a sufficient basis for the** denial of a license application.

(e) The department may adopt rules to implement this section.

SECTION 49. IC 31-27-3-18, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A licensee shall keep records regarding each child in the control and care of the licensee as the department requires and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child caring institution.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the child caring institution.

(5) The parent, guardian, or custodian of the child at the child caring institution.

(6) A citizen review panel established under IC 31-25-2-20.4.

SECTION 50. IC 31-27-3-31, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2007]: Sec. 31. **(a)** The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee~~ **or the director or manager of a facility where children will be placed by the licensee,** of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that the licensee previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or determination;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

SECTION 51. IC 31-27-4-5, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) An applicant must apply for a foster family home license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting the following:

(1) That the applicant has not been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) That the applicant has not been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) An applicant shall submit the necessary information, forms, or consents for the department to conduct a criminal history check for each individual who is an applicant.

(e) **The department or, at the discretion of the department,** an applicant, shall ~~do the following:~~

~~(1)~~ conduct a criminal history check of:

~~(A)~~ **(1)** the applicant's

~~(i)~~ employees and

~~(ii)~~ volunteers

who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant; and

~~(B)~~ **(2)** all household members who are at least fourteen (14) years of age**.**

~~(2)~~ **(f) If the applicant conducts criminal history checks under subsection (e), the applicant shall** maintain records of ~~each criminal history check.~~ **the information received concerning each individual subject of a criminal history check.**

~~(f)~~ **(g) If the department conducts a criminal history check on behalf of an applicant under subsection (e), the department shall:**

(1) make a determination whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (e); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (e).

(h) Except as provided in subsection (i), a criminal history check described in subsection (e) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(i) With the exception of a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1), a criminal history

check concerning a person described in subsection (e) must be completed on or before the date on which the subject of the check is first employed or assigned as a volunteer in a position described in subsection (e)(1) or first becomes a resident of the applicant's household as described in subsection (e)(2). A fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer. However, if a person described in this subsection has been the subject of a criminal history check that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

~~An applicant is required to conduct a criminal history check required under subsection (e)(1) only one (1) time.~~

~~(g)~~ **(j) An applicant or a licensee described in subsection (e)(1) may provisionally employ an individual or assign a volunteer for whom a criminal history check is required during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (e)(1), the applicant or licensee shall consider the following:**

(1) The training time required by an employee or a volunteer.

(2) The safety and security of the children under the supervision of the applicant or licensee.

(3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.

(4) The staffing concerns of the applicant or licensee.

(5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

(k) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

(l) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

SECTION 52. IC 31-27-4-6, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; ~~or~~

(C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; **or**

(D) a person residing in the applicant's residence who is at least eighteen (18) years of age.

(2) A criminal conviction of the applicant ~~an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant,~~ of any of the following:

(A) a felony; ~~or~~

(B) a misdemeanor related to the health and safety of a child;

(C) a misdemeanor for operating a child care center or child care home without a license under IC 12-17.2-5; or

(D) a misdemeanor for operating a foster family home without a license under of this chapter (or IC 12-17.4-4 before its repeal).

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that the applicant previously operated a:

(A) child care center or child care home without a license under IC 12-17.2-5; or

(B) foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(b) An application for a license may also be denied if an individual who resides in the residence of the applicant or an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection or to permit the individual to reside in the applicant's residence.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(5) The nature and extent of unsupervised contact with children residing in the home.

~~(b)~~ **(d)** Notwithstanding subsection ~~(a)(2),~~ **(a) or (b),** if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of, **or a determination of child abuse or neglect by,** an employee, ~~or~~ a volunteer, **or a person residing in the residence** of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant **or that the person residing in the residence no longer resides there;** the criminal conviction of, **or determination of child abuse or neglect by,** the former employee, ~~or~~ former volunteer, **or former**

household resident does not ~~require~~ **constitute a sufficient basis for the** denial of a license application.

(e) The department may adopt rules to implement this section.

SECTION 53. IC 31-27-4-13, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) The department shall deny a license when an applicant fails to meet the requirements for a license. The department shall deny a license to an applicant who has been convicted of any of the following felonies:

(1) Murder (IC 35-42-1-1).
(2) Causing suicide (IC 35-42-1-2).
(3) Assisting suicide (IC 35-42-1-2.5).
(4) Voluntary manslaughter (IC 35-42-1-3).
(5) Reckless homicide (IC 35-42-1-5).
(6) Battery (IC 35-42-2-1).
(7) Domestic battery (IC 35-42-2-1.3).
~~(7)~~ **(8)** Aggravated battery (IC 35-42-2-1.5).
~~(8)~~ **(9)** Kidnapping (IC 35-42-3-2).
~~(9)~~ **(10)** Criminal confinement (IC 35-42-3-3).
~~(10)~~ **(11)** A felony sex offense under IC 35-42-4.
~~(11)~~ **(12)** Carjacking (IC 35-42-5-2).
~~(12)~~ **(13)** Arson (IC 35-43-1-1).
~~(13)~~ **(14)** Incest (IC 35-46-1-3).
~~(14)~~ **(15)** Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
~~(15)~~ **(16)** Child selling (IC 35-46-1-4(d)).
~~(16)~~ **(17)** A felony involving a weapon under IC 35-47 or IC 35-47.5.
~~(17)~~ **(18)** A felony relating to controlled substances under IC 35-48-4.
~~(18)~~ **(19)** An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
~~(19)~~ **(20)** A felony that is substantially equivalent to a felony listed in subdivisions (1) through ~~(18)~~ **(19)** for which the conviction was entered in another state.

The department may deny a license to an applicant who has been convicted of a felony that is not listed in this subsection.

(b) The department shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (b).

(d) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

(e) An administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

SECTION 54. IC 31-27-4-21, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the foster family home.
(2) A legally mandated child protection agency.
(3) A law enforcement agency.
(4) An agency having the legal responsibility to care for a child placed at the foster family home.
(5) The parent, guardian, or custodian of the child at the foster family home.
(6) A citizen review panel established under IC 31-25-2-20.4.

SECTION 55. IC 31-27-4-32, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. **(a)** The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:
(A) the licensee;
(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; ~~or~~
(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; **or**
(D) a person at least eighteen (18) years of age who is residing in the home of the licensee.
(2) A criminal conviction of the licensee ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, of~~ **for** any of the following:
(A) A felony.
(B) A misdemeanor related to the health or safety of a child.
(C) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2-5.
(D) A misdemeanor for operating a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).
(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.
(4) A determination by the department that the licensee made false statements in the records required by the department.
(5) A determination by the department that the licensee previously operated a:
(A) child care center or child care home without a license under IC 12-17.2-5; or
(B) foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(b) A license may also be revoked if an individual who resides in the residence of the licensee or an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).
(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection or to permit the individual to reside in the licensee's residence.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.
(2) The severity, nature, and circumstances of the offense.
(3) Evidence of rehabilitation.
(4) The duties and qualifications required for the proposed employment positions or volunteer

assignment.

(d) Notwithstanding subsection (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee or an individual residing in the residence of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or that the individual no longer resides in the licensee's residence;

the criminal conviction of, or determination of child abuse or neglect by, the former employee, former volunteer, or former household resident does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

SECTION 56. IC 31-27-5-4, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) An applicant must apply for a group home license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting the following:

(1) That the applicant has not been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) That the applicant has not been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) **The department on behalf of an applicant, or, at the discretion of the department,** an applicant, shall ~~(1)~~ conduct a criminal history check of **the following:**

~~(A)~~ **(1)** Each individual who is an applicant. ~~and~~

~~(B)~~ **(2)** The director or manager of a facility where children will be placed. ~~and~~

~~(2) submit to the department the result of each criminal history check conducted under this subsection.~~

(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(e) ~~An~~ **If the applicant conducts a criminal history check under subsection (d), the** applicant shall: ~~do the following:~~

~~(1) Conduct a criminal history check of the applicant's:~~

~~(A) employees; and~~

~~(B) volunteers;~~

~~who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant.~~

~~(2)~~ **(1)** maintain records of ~~each criminal history check.~~ **the information it receives concerning each individual who is the subject of a criminal history check; and**

(2) submit to the department a copy of the information the applicant receives concerning each person described in subsection (d)(1) through (d)(3).

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information it receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer. However, a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (d) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d). If a person described in this subsection has been the subject of a criminal history check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

(i) An applicant or licensee may provisionally employ an individual or assign a volunteer described in subsection (d)(3) for whom a criminal history check is required during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received within ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (d)(3), the applicant or licensee shall consider the following:

(1) The training time required by an employee or a volunteer.

(2) The safety and security of the children under the supervision of the applicant or licensee.

(3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.

(4) The staffing concerns of the applicant or licensee.

(5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

(j) The department shall, at the applicant's request, inform the applicant as to whether the department has or does not have a record of the person who is the subject of a criminal history background check and whether the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective services investigation report.

(k) A person who is the subject of a criminal history check

conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

~~(f) An applicant is required to conduct a criminal history check required under subsection (c)(1) only one (1) time for each employee or volunteer.~~

~~(g) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.~~

SECTION 57. IC 31-27-5-6, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, ~~an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant,~~ **or the director or manager of a facility where children will be placed by the applicant, for** any of the following:

(A) A felony.

(B) A misdemeanor related to the health and safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that the applicant previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) **An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:**

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection ~~(a)(2),~~ **(a) or (b),** if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of, **or a determination of child abuse or neglect by,** an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of, **or determination of child abuse or neglect by,** the former employee or former volunteer does not ~~require~~ **constitute a sufficient basis for the** denial of a license application.

(e) The department may adopt rules to implement this section.

SECTION 58. IC 31-27-5-18, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department, upon request, the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the group home.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the group home.

(5) The parent, guardian, or custodian of the child at the group home.

(6) A citizen review panel established under IC 31-25-2-20.4.

SECTION 59. IC 31-27-5-31, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. **(a)** The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee,~~ **or the director or manager of a facility where children will be placed by the licensee,** for any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that the licensee previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

SECTION 60. IC 31-27-6-2, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) An applicant must apply for a child placing agency license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) The applicant ~~shall~~ **must** submit with the application a statement attesting the following:

(1) That the applicant has not been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) That the applicant has not been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) **The department on behalf of an applicant, or, at the discretion of the department,** an applicant, shall ~~(1)~~ conduct a criminal history check of **the following:**

~~(A)~~ **(1)** Each individual who is an applicant. ~~and~~

~~(B)~~ **(2)** The director or manager of a facility where children will be placed. ~~and~~

~~(2) submit to the department the result of each criminal history check conducted under this subsection.~~

(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(e) ~~An~~ **If the applicant conducts a criminal history check under subsection (d), the** applicant shall: ~~do the following:~~

~~(1) Conduct a criminal history check of the applicant's:~~

~~(A) employees; and~~

~~(B) volunteers;~~

~~who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant.~~

~~(2)~~ **(1)** maintain records of ~~each~~ **the information it receives concerning each individual who is the subject of a** criminal history check; **and**

(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3).

~~(f) An applicant is required to conduct a criminal history check required under subsection (c)(1) only one (1) time for each employee or volunteer.~~

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history background check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer. However, a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d)(3). If a person described in this subsection has been the subject of a criminal history background check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person

is not required.

(i) An applicant or a licensee may provisionally employ an individual or assign a volunteer described in subsection (d)(3) for whom a criminal history background check is required during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received within ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or a volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or an employee of the applicant or licensee who has been the subject of a completed and approved criminal history background check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (d)(3), the applicant or licensee shall consider the following:

(1) The training time required by an employee or a volunteer.

(2) The safety and security of the children under the supervision of the applicant or licensee.

(3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.

(4) The staffing concerns of the applicant or licensee.

(5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

~~(g)~~ **(j)** The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

(k) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

SECTION 61. IC 31-27-6-3, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The following constitute sufficient grounds for denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, ~~an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant,~~ **or the director or manager of a facility where children will be placed by the licensee,** for any of the following:

(A) A felony.

(B) A misdemeanor related to the health and safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that the applicant previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) **An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:**

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection ~~(a)(2),~~ **(a) or (b),** if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of, **or a determination of child abuse or neglect by,** an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of, **or determination of child abuse or neglect by,** the former employee or former volunteer does not ~~require~~ **constitute a sufficient basis for the** denial of a license application.

(e) The department may adopt rules to implement this section.

SECTION 62. IC 31-27-6-15, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child placing agency.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) A citizen review panel established under IC 31-25-2-20.4.

SECTION 63. IC 31-27-6-28, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. **(a)** The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, of~~ **or the director or manager of a facility where children will be placed by the licensee, for** any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that the licensee previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or determination;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

SECTION 64. IC 31-32-1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4. (a) Any written notice of a hearing or other court proceeding in a child in need of services case under IC 31-34 or a delinquency case under IC 31-37 shall be given to:**

(1) a party in the manner provided by Rule 5 of the Indiana Rules of Trial Procedure; or

(2) an individual who is not a party by:

(A) personal delivery to the individual; or

(B) mail as provided in Rule 5(B)(2) of the Indiana Rules of Trial Procedure.

(b) Notice by mail must be deposited in the United States mail not less than five (5) calendar days (excluding Saturdays, Sundays, and national legal holidays recognized by the federal government) before the date of the scheduled hearing or proceeding.

(c) Written notice may be given by either:

(1) a copy of a court order or docket entry; or

(2) a letter addressed to the individual required to be notified;

that states the date, time, and purpose of the hearing or proceeding.

(d) Written notice is not required if verbal notice of the date, time, place, and purpose of the hearing or proceeding is given by the court at an earlier hearing or proceeding at which the individual to be notified is present.

(e) Written notice is not required if:

(1) the hearing or proceeding is scheduled to be held at a time within forty eight (48) hours (excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees) after the court sets the time for the hearing or proceeding; and

(2) the individual responsible for giving the notice under this section:

(A) provides verbal notice of the date, time, place, and purpose of the hearing or proceeding directly to the person required to be notified; and

(B) verifies by affidavit or testimony at the hearing that verbal notice was given as required under this subsection.

(f) Except as provided in subsection (d):

(1) the department is responsible for giving all notices of a hearing or proceeding in a child in need of services case under IC 31-34; and

(2) the prosecuting attorney or the probation department of the juvenile court is responsible for giving all notices of a hearing or proceeding in a delinquency case under IC 31-37.

SECTION 65. IC 31-33-8-13, AS AMENDED BY P.L.234-2005, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. Whenever

~~(1) an arrest relating to child abuse or neglect is made, the law enforcement agency that makes the arrest;~~

~~(2) criminal charges relating to child abuse or neglect are filed, the court in which the charges are filed;~~

~~(3) a child in need of services determination is made, the department;~~

~~(4) a court approves a program of informal adjustment under IC 31-34-8 arising out of a child abuse or neglect~~

~~report, the department; or~~

~~(5) a person who is accused of child abuse or neglect:~~

~~(A) enters into a services referral agreement; and~~

~~(B) fails to substantially comply with the terms of the services referral agreement;~~

~~under IC 31-33-13, the department;~~

~~shall transmit to the registry, not more than five (5) working days after the circumstances described by subdivisions (1) through (5) occur, the relevant~~ **a court finds that a child is a child in need of services on the basis of a** child abuse or neglect report **classified as substantiated under section 12 of this chapter, the department shall enter into the child protection index established under IC 31-33-26-2 identifiable information concerning the court's judgment.**

SECTION 66. IC 31-33-18-2, AS AMENDED BY P.L.146-2006, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 31-33-24-6.

(17) The statewide child fatality review committee established by IC 31-33-25-6.

(18) The department.

(19) The division of family resources, if the investigation report:

(A) is classified as substantiated; and

(B) concerns:

(i) an applicant for a license to operate;

(ii) a person licensed to operate;

(iii) an employee of; or

(iv) a volunteer providing services at;

a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.

(20) A citizen review panel established under IC 31-25-2-20.4.

SECTION 67. IC 31-33-26 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 26. Child Protection Index

Sec. 1. (a) As used in this chapter, "child care provider" means a person who:

(1) provides child care (as defined in IC 12-7-2-28.2) regardless of whether the person is required to be licensed or registered under IC 12-17.2; or

(2) is a child caring institution, a foster family home, a group home, or a child placing agency that is licensed or required to be licensed under IC 31-27.

(b) As used in this chapter, "index" refers to the child protection index established under section 2 of this chapter.

Sec. 2. The department shall establish and maintain a centralized, computerized child protection index to organize and access data regarding substantiated reports of child abuse and neglect that the department receives from throughout Indiana under this article.

Sec. 3. In addition to the equipment needed to establish, operate, and maintain the index, the index must include the following components:

(1) One (1) computer to be purchased for every two (2) child welfare caseworkers.

(2) Automated risk assessment in which a child welfare caseworker or supervisor is able to review a substantiated child abuse or neglect case to determine prior case history during the intake, investigation, assessment, and case management processes.

(3) The capability to allow supervisors to monitor child abuse and neglect cases and reports relating to the cases.

(4) The automated production of standard reports to enable the automated compilation of information gathered on forms used by child welfare caseworkers to report the information and results of child abuse and neglect cases. The index must also provide for the automation of other data for planning and evaluation as determined by the department.

(5) The capability of same day notification and transfer of statistical information to the department regarding new and closed child abuse and neglect cases.

(6) The enabling of child welfare supervisors to review a child abuse or neglect determination at any point after the investigation is initially classified as substantiated abuse or neglect, to confirm the status of the case, and to allow for the consolidated management of cases.

(7) The capability for adjusting the index's programming at a later date if additional reporting requirements occur.

(8) A word processing capability to allow case notes to be recorded with each substantiated child abuse and neglect case.

Sec. 4. (a) In addition to the components described in section 3 of this chapter, the index must have the capability to maintain a case history file.

(b) Whenever a person enters a new child abuse or neglect report into the index, the index must have the capability to automatically search for reports that match the name of the:

(1) perpetrator;

(2) victim; or

(3) person who is legally responsible for the victim's welfare;

with the persons named in the new report as described in this chapter.

(c) If the index identifies a previous, substantiated report, the index must have the capability to transfer the report to the county where the new report originated not later than twenty-four (24) hours after receipt of the new report. If a previous, matching report is located, a case history extract must be made available to the assigned caseworker.

Sec. 5. (a) Subject to the accessibility to files provided in subsection (b), at least ten (10) levels of security for confidentiality in the index must be maintained.

(b) The index must have a comprehensive system of limited access to information as follows:

(1) The index must be accessed only by the entry of an operator identification number and a password.

(2) A child welfare caseworker must be allowed to access only:

(A) cases that are assigned to the caseworker; and

(B) other cases or investigations that involve:

(i) a family member of a child; or

(ii) a child;

who is the subject of a case described in clause (A).

(3) A child welfare supervisor may access only the following:

(A) Cases assigned to the supervisor.

(B) Cases assigned to a caseworker who reports to the supervisor.

(C) Other cases or investigations that involve:

(i) a family member of a child; or

(ii) a child;

who is the subject of a case described in clause (A) or (B).

(D) Cases that are unassigned.

(4) To preserve confidentiality in the workplace, child welfare managers, as designated by the department, may access any case, except restricted cases involving:

(A) a state employee; or

(B) the immediate family member of a state employee;

who has access to the index. Access to restricted information under this subdivision may be obtained only if an additional level of security is implemented.

(5) Access to records of authorized users, including passwords, is restricted to:

(A) users designated by the department as administrators; and

(B) the administrator's level of access as determined by the department.

(6) Ancillary programs that may be designed for the index may not be executed in a manner that would circumvent the index's log-on security measures.

(7) Certain index functions must be accessible only to index operators with specified levels of authorization as determined by the department.

(8) Files containing passwords must be encrypted.

(9) There must be two (2) additional levels of security for confidentiality as determined by the department.

Sec. 6. The department shall store data regarding child abuse or neglect reports in a manner that allows the data to be retrieved based on the following, if known:

(1) The child's name.

(2) The child's date of birth.

(3) The alleged perpetrator's name.

(4) The child's mother's name.

(5) The child's father's name.

(6) The name of a sibling of the child.

(7) The name of the child's guardian or custodian if applicable.

Sec. 7. The department may adopt rules under IC 4-22-2 to ensure that the confidentiality of and access to reports of child abuse or neglect are maintained as provided in this chapter.

Sec. 8. (a) This section does not apply to substantiated reports if a court has determined that a child is a child in need of services based on:

(1) a report of child abuse or neglect that names the perpetrator as the individual who committed the child abuse or neglect; or

(2) facts presented to the court at a hearing in a child in need of services case commenced under IC 31-34 that are consistent with the facts and conclusions stated in the report, if the department approved the substantiated report after the court's determination.

(b) Not later than thirty (30) days after the department enters a substantiated child abuse or neglect report into the index, the department shall notify:

(1) the parent, guardian, or custodian of the child who is named in the report as the victim of the child abuse or neglect; and

(2) any person identified as the perpetrator, if other than the child's parent, guardian, or custodian;

that the department has entered the report into the index.

(c) The department shall state the following in a notice to the perpetrator of a substantiated report under subsection (b):

(1) The report has been classified as substantiated.

(2) The perpetrator may request that a substantiated report be amended or expunged at an administrative hearing if the perpetrator does not agree with the classification of the report unless a court is in the

process of making a determination.

(3) The perpetrator's request for an administrative hearing to contest the classification of a substantiated report must be received by the department not more than thirty (30) days after the notice is served on the perpetrator as provided in IC 4-21.5-3-1(b). Time shall be computed as provided in IC 4-21.5-3-2.

(d) If the perpetrator fails to request an administrative hearing within the time specified in subsection (c)(3), the perpetrator named in a substantiated report may request an administrative hearing to contest the classification of the report if the perpetrator demonstrates that the failure to request an administrative hearing was due to excusable neglect or fraud. The Indiana Rules of Civil Procedure provide the standard for excusable neglect or fraud.

Sec. 9. (a) Except as provided in sections 11 and 12 of this chapter, the department shall conduct an administrative hearing upon a request made under section 8 of this chapter.

(b) At the administrative hearing, the department must prove by a preponderance of credible evidence that the perpetrator is responsible for the child's abuse or neglect.

(c) During an administrative hearing under this section, the administrative hearing officer shall consider hearsay evidence to be competent evidence and may not exclude hearsay based on the technical rules of evidence. However, a determination may not be based solely on evidence that is hearsay.

(d) If the department fails to carry the burden of proof under subsection (b), the department shall amend or expunge the report as ordered by the administrative hearing officer within the period provided under section 15 of this chapter.

(e) The department shall maintain the confidentiality of an abuse or a neglect report during the administrative process.

(f) The administrative hearing shall be closed.

(g) The administrative files shall be closed and not disclosed to the public.

Sec. 10. The department shall administer the index in a manner that enables the department to do the following:

(1) Immediately identify and locate prior reports of child abuse or neglect through the use of the department's:

(A) computerized tracking system; and

(B) automated risk assessment system.

(2) Track steps in the investigative process to ensure compliance with all requirements for a report of child abuse or neglect.

(3) Maintain and produce aggregate statistical reports monitoring patterns of child abuse and neglect that the department shall make available to the public upon request.

(4) Serve as a resource for the evaluation, management, and planning of preventive and remedial services to children who have been subject to child abuse or neglect.

Sec. 11. (a) If a court having jurisdiction over a child in need of services case under IC 31-34 has determined or is anticipated to determine whether:

(1) a report of suspected child abuse or neglect is properly substantiated;

(2) child abuse or neglect occurred; or

(3) any person was a perpetrator of child abuse or neglect;

the determination of the court is binding.

(b) The administrative hearing under this chapter shall be stayed pending an anticipated action by the court.

(c) A person named as a perpetrator in a report of suspected child abuse or neglect is not entitled to an administrative hearing under this chapter if a court has determined that:

(1) the alleged child abuse or neglect did not occur; or

(2) the person was not a perpetrator of the alleged child abuse or neglect.

Sec. 12. (a) If criminal charges are filed against a perpetrator based on the same facts and circumstances on which the department classified a child abuse or neglect report as substantiated, any administrative hearing requested by the perpetrator under this chapter shall be stayed pending disposition of the criminal charges.

(b) If the criminal charges result in the conviction of the perpetrator and the facts that provided a necessary element for the conviction also provided the basis for the substantiated report under IC 31-33-8-12, the person named in the report as a perpetrator of child abuse or neglect is not entitled to an administrative hearing under this chapter.

Sec. 13. The department shall adopt rules under IC 4-22-2:

(1) to provide procedures not inconsistent with section 9 of this chapter by which any person identified as a perpetrator in a substantiated report of child abuse or neglect that is entered into the child protection index may request and obtain an administrative hearing as provided in this chapter;

(2) to establish procedures for the conduct of the administrative hearing; and

(3) to establish provisions for administrative review by the department of a proposed or approved substantiated report, before or after an administrative hearing is available or conducted.

Sec. 14. The department shall immediately amend or expunge from the index a substantiated report containing an inaccuracy arising from an administrative or a clerical error.

Sec. 15. (a) The department shall expunge a substantiated report contained within the index as follows:

(1) Not later than ten (10) working days after any of the following occurs:

(A) A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not occurred.

(B) An administrative hearing officer under this chapter finds that the child abuse or neglect report is unsubstantiated.

(C) A court having juvenile jurisdiction enters an order for expungement of the report under IC 31-33-7-6.5.

(2) Not later than twenty (20) years after a court determines that a child is a child in need of services based upon the report.

(b) The department shall amend a substantiated report contained in the index by deleting the name of an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) an administrative hearing officer under this chapter;

finds that the person was not a perpetrator of the child abuse or neglect that occurred.

(c) If subsection (a) does not apply, the department shall expunge the substantiated report not later than the date on which any child who is named in the report as a victim of child abuse or neglect becomes twenty-four (24) years of age.

(d) The department shall expunge an indicated report contained in the index at the time specified in IC 31-33-8-12.

(e) The department shall expunge an unsubstantiated report contained in the index not later than six (6) months after the date the report was entered into the index.

Sec. 16. (a) A person or an organization may have access to information contained in the index as follows:

(1) A law enforcement agency may have access to a substantiated report for purposes of investigating or criminally prosecuting a person identified as a perpetrator of child abuse or neglect.

(2) A child care provider, upon submitting a written consent for release of information signed by an individual who:

(A) is employed by or who has applied for employment with the child care provider;

(B) has volunteered to provide services to the child care provider in a capacity that would place the individual in direct contact, on a regular and continuous basis, with children who are or will be under the direct supervision of the child care provider; or

(C) is at least eighteen (18) years of age and resides in the home of the child care provider;

may have access to any information relating to a substantiated report of child abuse or neglect that names the employee, applicant, volunteer, or household resident as the perpetrator of child abuse or neglect.

(3) A person may have access to any information that is contained in the index pertaining to the person, with protection for the identity of:

(A) a person who reports the child abuse or neglect; and

(B) any other appropriate person.

(4) A person or an agency to whom child abuse and neglect reports are available under IC 31-33-18 may have access to information contained in the index.

(5) Representatives of the division of family resources designated by the director of the division may have access to and use any information relating to a substantiated report of child abuse or neglect that would constitute a basis for denial or revocation of a license for a child care center under IC 12-17.2-4 or a child care home under IC 12-17.2-5.

(6) Representatives of the department designated by the director may have access to and use any information relating to a substantiated report of child abuse or neglect that would constitute a basis for denial or revocation of a license for a child caring institution, foster family home, group home, or child placing agency under IC 31-27.

(7) Any representative of the department, a court having juvenile jurisdiction, and any party in a case under IC 31-34 or IC 31-37 may have access to and use any information relating to a substantiated report of child abuse or neglect in connection with a determination of an appropriate out of home placement for a child under any applicable provision of IC 31-34 or IC 31-37 that requires a criminal history check (as described in IC 31-9-2-22.5) concerning any person.

(8) The department shall provide any information contained in a substantiated report of child abuse or neglect that is included in the index to an authorized agency of another state that requests information concerning a prospective foster or adoptive parent, or any other adult living in the home of a prospective foster or adoptive parent, in accordance with 42 U.S.C. 671(a)(20)(C).

(9) The department shall transmit or provide to a national index of substantiated cases of child abuse or neglect established in accordance with 42 U.S.C. 16990:

(A) a copy of any substantiated report and related information entered into the index; and

(B) information concerning expungement or amendment of any substantiated report as provided in section 14 or 15 of this chapter.

(10) To determine the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3), the division of family resources may use information contained in the index concerning whether a child has been found by a court to be a child in need of services based on a report of child abuse or neglect naming an individual described in IC 12-17.2-3.5-4.1(a) as a perpetrator.

(b) Except as provided in this section or in rules adopted under subsection (c), the department may not disclose information used in connection with the department's activities under this section.

(c) The department shall adopt rules under IC 4-22-2 relating to the procedure for disclosure of information described in this section.

Sec. 17. (a) If a court grants a name change under IC 34-28-2 (or IC 34-4-6 before its repeal) to a person:

(1) against whom an allegation of child abuse or neglect has been substantiated; and

(2) whose name is maintained within the index in accordance with this chapter;

the person must notify the department regarding the name change not more than ten (10) business days after the court enters a decree changing the person's name.

(b) The notice under subsection (a) must include a copy of the decree of the court that changes the name of the person, certified under the seal of the clerk of court.

Sec. 18. On July 1, 2007, all substantiated reports and other documents relating to child abuse or neglect cases contained in the child abuse registry under IC 31-33-17 (before its repeal) and the automated child protection system under IC 31-33-20 (before its repeal) shall be transferred to and be included in the child protection index. The department shall maintain and administer all reports and documents transferred to and included in the child protection index as provided in this chapter.

SECTION 68. IC 31-34-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** If a child taken into custody under IC 31-34-2 is not released, a detention hearing shall be held not later than forty-eight (48) hours, excluding Saturdays, Sundays, and ~~legal holidays,~~ **any day on which a legal holiday is observed for state employees as provided under IC 1-1-9,** after the child is taken into custody. If the detention hearing is not held, the child shall be released. Notice of the time, place, and purpose of the detention hearing shall be given to the following:

(1) The child.

(2) The child's parent, guardian, or custodian if the person can be located.

(3) Each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-34-4.

(b) The court shall:

(1) provide a person who is required to be notified under subsection (a)(2) or (a)(3) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

SECTION 69. IC 31-34-5-1.5, AS AMENDED BY P.L.145-2006, SECTION 292, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.5. (a) This section applies to a child taken into custody under IC 31-34-2.5.

(b) The juvenile court shall hold a detention hearing after an emergency medical services provider takes custody of a child under IC 31-34-2.5. The court shall hold the detention hearing not later than forty-eight (48) hours after the emergency medical services provider takes the child into custody, excluding Saturdays, Sundays, and ~~legal holidays.~~ **any day on which a legal holiday is observed for state employees as provided under IC 1-1-9.**

(c) The department may notify the emergency medical services provider that has taken emergency custody of a child under IC 31-34-2.5 of the detention hearing. The emergency medical services provider may be heard at the detention hearing.

(d) The department shall notify each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5 of the detention hearing. The court shall:

(1) provide a person who is required to be notified under this subsection an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

SECTION 70. IC 31-34-10-2, AS AMENDED BY P.L.129-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition.

(b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

(1) The child.

(2) The child's parent, guardian, custodian, guardian ad litem, or court appointed special advocate.

(3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

(d) If the child has been detained following a detention hearing under IC 31-34-5, an initial hearing shall be scheduled and held not later than seven (7) days after the date of the detention order, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided under IC 1-1-9.

(e) If the initial hearing is not scheduled and held within the specified time as described in this section, the child shall be released to the child's parent, guardian, or custodian.

(f) The court may schedule an additional initial hearing on the child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section.

(g) An additional initial hearing on the child in need of services petition shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition, unless the court has:

(1) granted an extension of time for extraordinary circumstances; and

(2) stated the extraordinary circumstance in a written court order.

(h) The department shall provide notice of the date, time, place, and purpose of the initial hearing and any additional initial hearing scheduled under this section to each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5, IC 31-34-4, or IC 31-34-5. The court shall:

(1) provide a:

(A) person for whom a summons is required to be issued under subsection (b); and

(B) person who is required to be notified under this subsection;

an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the initial hearing.

SECTION 71. IC 31-34-11-1, AS AMENDED BY P.L.146-2006, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (b), unless the allegations of a petition have been admitted, the juvenile court shall complete a factfinding hearing not more than sixty (60) days after a petition alleging that a child is a child in need of services is filed in accordance with IC 31-34-9.

(b) The juvenile court may extend the time to complete a factfinding hearing, as described in subsection (a), for an additional sixty (60) days if all parties in the action consent to the additional time.

(c) If the factfinding hearing is not held immediately after the initial hearing as provided under IC 31-34-10-9, the department shall provide notice of any factfinding hearing to each foster parent or other caretaker with whom the child has been placed for temporary care. The court shall provide a person who is required to be notified under this subsection an opportunity to be heard at the factfinding hearing.

SECTION 72. IC 31-34-19-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.3. (a) The department shall provide notice of the date, time, place, and purpose of the dispositional hearing under this chapter to each:**

(1) party or person for whom a summons is required to be issued under IC 31-34-10-2; and

(2) foster parent or other caretaker with whom the child is placed for temporary care;

at the time the dispositional hearing is scheduled.

(b) The court shall:

(1) provide a person required to be notified under subsection (a) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the dispositional hearing.

SECTION 73. IC 31-34-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Any predispositional report may be admitted into evidence to the extent that the report contains evidence of probative value even if the report would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted.

(c) The:

(1) child;

(2) child's parent, guardian, or custodian; ~~and~~

(3) person representing the interests of the state; **and**

(4) foster parent or other caretaker who is entitled to notice of the dispositional hearing under section 1.3 of this chapter;

shall be given a fair opportunity to controvert any part of the report admitted into evidence.

SECTION 74. IC 31-34-21-7, AS AMENDED BY P.L.145-2006, SECTION 322, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The court shall hold a permanency hearing:

(1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;

(2) every twelve (12) months after:

(A) the date of the original dispositional decree; or

(B) a child in need of services was removed from the child's parent, guardian, or custodian;

whichever comes first; or

(3) more often if ordered by the juvenile court.

(b) The court shall:

(1) make the determination and findings required by section 5 of this chapter;

(2) consider the question of continued jurisdiction and whether the dispositional decree should be modified;

(3) consider recommendations of persons listed under section 4 of this chapter, before approving a permanency plan under subdivision ~~(4);~~ **(5);**

(4) consult with the child in person, or through an interview with or written statement or report submitted by:

(A) a guardian ad litem or court appointed special advocate for the child;

(B) a case manager; or

(C) the person with whom the child is living and who has primary responsibility for the care and

supervision of the child;

in an age appropriate manner as determined by the court, regarding the proposed permanency plan;

~~(4)~~ **(5)** consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;

~~(5)~~ **(6)** determine whether an existing permanency plan must be modified; and

~~(6)~~ **(7)** examine procedural safeguards used by the department to protect parental rights.

(c) If the child is at least sixteen (16) years of age and the proposed permanency plan provides for the transition of the child from foster care to independent living, the court shall:

(1) require the department to send notice of the permanency hearing to the child, in accordance with section 4(a) of this chapter; and

(2) provide to the child an opportunity to be heard and to make recommendations to the court, in accordance with section 4(c) of this chapter.

~~(c)~~ **(d)** There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If the department does not sustain its burden for continued jurisdiction, the court shall:

(1) direct the department to establish a permanency plan within thirty (30) days; or

(2) discharge the child and the child's parent, guardian, or custodian.

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1).

SECTION 75. IC 31-34-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Before a case review under IC 31-34-21-2 or hearing under IC 31-34-21-7, the probation department or the ~~county office of family and children~~ **department** shall prepare a report on the progress made in implementing the dispositional decree, including the progress made in rehabilitating the child, preventing placement out-of-home, or reuniting the family.

(b) Before preparing the report required by subsection (a), the probation department or the ~~county office of family and children~~ **department** shall consult a foster parent of the child about the child's progress made while in the foster parent's care.

(c) If modification of the dispositional decree is recommended, the probation department or the ~~county office of family and children~~ **department** shall prepare a modification report containing the information required by IC 31-34-18 and request a formal court hearing.

SECTION 76. IC 31-34-22-2, AS AMENDED BY P.L.146-2006, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as provided in subsection (b), a report prepared by the state:

(1) for the juvenile court's review of the court's dispositional decree; or

(2) prepared for use at a periodic case review under IC 31-34-21-2 or hearing under IC 31-34-21-7;

shall be made available to the child, and the child's parent, foster parent, guardian, guardian ad litem, court appointed special advocate, ~~or~~ custodian, **or any other person who is entitled to receive notice of the periodic case review or permanency hearing under IC 31-34-21-4** within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to ~~the child or the child's parent, foster parent, guardian, or custodian,~~ **any person entitled to receive a report under subsection (a),** the court is not required to make the report available to the person as required in subsection (a). However, the court shall provide a copy of the report to the following:

(1) Each attorney or guardian ad litem representing the child.

(2) Each attorney representing the child's parent, guardian, or custodian.

(3) Each court appointed special advocate.

(c) The court may also provide a factual summary of the report to the child or the child's parent, foster parent, guardian, or custodian.

~~(d) In addition to the requirements of subsection (a), any report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report to any court appointed special advocate.~~

SECTION 77. IC 31-34-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Any report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, ~~or~~ custodian, **or any other person who is entitled to receive a report under section 2 of this chapter,** a factual summary of the report may be admitted.

(c) The **following shall be given a fair opportunity to controvert any part of the report admitted into evidence:**

(1) **The** child.

(2) **The** child's parent, guardian, or custodian. ~~and~~

(3) **The** person representing the interests of the state.

(4) Any other person who is entitled to receive a report under section 2 of this chapter.

~~shall be given a fair opportunity to controvert any part of the report admitted into evidence.~~

SECTION 78. IC 31-34-23-4, AS AMENDED BY P.L.129-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. If a hearing is required, IC 31-34-18 governs the preparation and use of a modification report. The report shall be prepared if the state or any person other than the child or the child's parent, guardian, guardian ad litem, court appointed special advocate, or custodian is requesting the modification. **Notice of any hearing under this chapter shall be given in accordance with IC 31-34-19-1.3.**

SECTION 79. IC 31-34-24-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. The team may adopt as its plan an existing plan for provision of family preservation services, as defined in ~~IC 12-7-2-82.3,~~ **IC 31-9-2-44.8,** that:

(1) is in effect in the county;

(2) includes services for a child less than eighteen (18) years of age who reasonably may be expected to face out of home placement under IC 31-34 or IC 31-37 as a result of:

(A) dependency, abuse, or neglect;

(B) emotional disturbance; or

(C) delinquency adjudication; and

(3) addresses all of the objectives described in this section.

SECTION 80. IC 31-34-24-18, AS AMENDED BY P.L.234-2005, SECTION 185, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. The

~~(1)~~ juvenile court, in implementing a program of informal

adjustment for a child under IC 31-34-8, ~~and~~

~~(2) department of child services, in proposing a voluntary services referral agreement for the benefit of a child under IC 31-33-13,~~

shall consider and use to the extent feasible any available services described in ~~an early intervention~~ **a** plan approved under this chapter.

SECTION 81. IC 31-37-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** Notice of the time, place, and purpose of a detention hearing shall be given to:

(1) the child; ~~and~~

(2) the child's parent, guardian, or custodian if the person can be located; **and**

(3) each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-37-5.

(b) The court shall:

(1) provide a person who is required to be notified under subsection (a)(2) or (a)(3) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

SECTION 82. IC 31-37-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition.

(b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

(1) The child.

(2) The child's parent, guardian, custodian, or guardian ad litem.

(3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

(d) The prosecuting attorney or the probation department of the juvenile court shall provide notice of the time, place, and purpose of the initial hearing scheduled or held under this section to each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-37-5 or IC 31-37-7. The court shall:

(1) provide a:

(A) person for whom a summons is required to be issued under subsection (b); and

(B) person required to be notified under this subsection;

an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the initial hearing.

SECTION 83. IC 31-37-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** Unless the allegations of a petition have been admitted, the juvenile court shall hold a factfinding hearing.

(b) If the factfinding hearing is not held immediately after the initial hearing as provided under IC 31-37-12-9, the prosecuting attorney or probation department of the juvenile court shall provide notice of any factfinding hearing to each foster parent or other caretaker with whom the child has been placed for temporary care. The court shall provide a person required to be notified under this subsection an opportunity to be heard at the factfinding hearing.

SECTION 84. IC 31-37-18-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.3. (a) The prosecuting attorney or probation department of the juvenile court shall provide notice of the date, time, place, and purpose of the dispositional hearing under this chapter to each:**

(1) party or person for whom a summons is required to be issued under IC 31-37-12-2; and

(2) foster parent or other caretaker with whom the child is placed for temporary care;

at the time the dispositional hearing is scheduled.

(b) The court shall:

(1) provide a person who is required to be notified under subsection (a) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the dispositional hearing.

SECTION 85. IC 31-37-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Any predispositional report may be admitted into evidence to the extent that the report contains evidence of probative value even if the report would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted.

(c) The **following shall be given a fair opportunity to controvert any part of the report admitted into evidence:**

(1) **The** child.

(2) **The** child's parent, guardian, or custodian. ~~and~~

(3) **The** person representing the interests of the state.

(4) A foster parent or other caretaker who is entitled to notice of the dispositional hearing under section 1.3 of this chapter.

~~shall be given a fair opportunity to controvert any part of the report admitted into evidence.~~

SECTION 86. IC 31-37-20-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. (a) At least ten (10) days before a hearing under section 2 or 3 of this chapter, the probation department shall send notice of the hearing to each of the following:**

(1) The child's parent, guardian, or custodian.

(2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.

(3) The child or an attorney who has entered an appearance on behalf of the child.

(4) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:

(A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office;

(B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or

(C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed under IC 31-35 and is pending.

(5) Any other person who:

(A) the probation department has knowledge is currently providing care for the child; and

(B) is not required to be licensed under IC 12-17.2 or IC 31-27 to provide care for the child.

(6) Any other suitable relative or person whom the probation department knows has had a significant or caretaking relationship to the child.

(b) The court shall provide to a person described in subsection (a) an opportunity to be heard and to make any recommendations to the court in a hearing under section 2 or 3 of this chapter. The right to be heard and to make recommendations under this subsection includes:

(1) the right of a person described in subsection (a) to submit a written statement to the court that, if served

upon all parties to the delinquency proceeding and the persons described in subsection (a), may be made a part of the court record; and

(2) the right to present oral testimony to the court and cross-examine any of the witnesses at the hearing.

(c) This section does not exempt the probation department from sending a notice of the review to each party to the delinquency proceeding.

(d) The court shall continue the hearing if, at the time set for the hearing, the probation department has not provided the court with a signed verification that any person required to be notified under this section has been notified in the manner stated in the verification, unless the person appears for the hearing.

SECTION 87. IC 31-37-21-2, AS AMENDED BY P.L.146-2006, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as provided by subsection (b), a report prepared by the state:

(1) for the juvenile court's review of the court's dispositional decree; or

(2) for use at a periodic case review or hearing under IC 31-37-20-2 or IC 31-37-20-3;

shall be made available to the child, and the child's parent, foster parent, guardian, guardian ad litem, custodian, ~~or~~ court appointed special advocate, **or any other person who is entitled to receive notice under IC 31-37-20-4.5** within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to ~~the child or the child's parent, foster parent, guardian, or custodian,~~ **any person who is entitled to receive a report under subsection (a),** the court is not required to make the report available to the person as required under subsection (a). However, the court shall provide a copy of the report to the following:

(1) Each attorney or a guardian ad litem representing the child.

(2) Each attorney representing the child's parent, guardian, or custodian.

(3) A court appointed special advocate.

(c) The court may also provide a factual summary of the report to the child or the child's parent, foster parent, guardian, or custodian.

~~(d) In addition to the requirements of subsection (a), any report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report to any court appointed special advocate.~~

SECTION 88. IC 31-37-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Any report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, ~~or~~ custodian, **or any other person who is entitled to receive a report under section 2 of this chapter,** a factual summary of the report may be admitted.

(c) The **following shall be given a fair opportunity to controvert any part of the report admitted into evidence:**

(1) **The** child.

(2) **The** child's parent, guardian, or custodian. ~~and~~

(3) **The** person representing the interests of the state.

(4) Any other person who is entitled to receive a report under section 2 of this chapter;

~~shall be given a fair opportunity to controvert any part of the report admitted into evidence.~~

SECTION 89. IC 31-37-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. If a hearing is required, IC 31-37-17 governs the preparation and use of a modification report. The report shall be prepared if the state or any person other than the child or the child's parent, guardian, guardian ad litem, or custodian is requesting the modification. **Notice of any hearing under this chapter shall be given in accordance with IC 31-37-18-1.3.**

SECTION 90. IC 31-37-24-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. The team may adopt as its plan an existing plan for provision of family preservation services, as defined in ~~IC 12-7-2-82.3,~~ **IC 31-9-2-44.8,** that:

(1) is in effect in the county;

(2) includes services for a child less than eighteen (18) years of age who reasonably may be expected to face out of home placement under IC 31-34 or IC 31-37 as a result of:

(A) dependency, abuse, or neglect;

(B) emotional disturbance; or

(C) delinquency adjudication; and

(3) addresses all of the objectives described in this section.

SECTION 91. IC 31-37-24-18, AS AMENDED BY P.L.234-2005, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. The:

~~(1)~~ juvenile court, in implementing a program of informal adjustment for a child under IC 31-34-8, ~~and~~

~~(2) department of child services, in proposing a voluntary services referral agreement for the benefit of a child under IC 31-33-13,~~

shall consider and use to the extent feasible any available services described in an early intervention plan approved under this chapter.

SECTION 92. IC 34-26-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The division of state court administration shall:

(1) develop and adopt:

(A) a petition for an order for protection;

(B) an order for protection, including:

(i) orders issued under this chapter;

(ii) ex parte orders;

(iii) no contact orders under IC 31 and IC 35; and

(iv) forms relating to workplace violence restraining orders under IC 34-26-6;

(C) a confidential form;

(D) a notice of modification or extension for an order for protection, a no contact order, or a workplace violence restraining order;

(E) a notice of termination for an order for protection, a no contact order, or a workplace violence restraining order; and

(F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and

(2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:

(1) either party; or

(2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, or a workplace violence restraining order:

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE. IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY

OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND.

PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:

(A) THE RESPONDENT'S CURRENT OR FORMER SPOUSE;

(B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR

(C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

(1) the forms adopted under subsection (a);

(2) all other forms required to petition for an order for protection, including forms:

(A) necessary for service; and

(B) required under **IC 31-21 (or** IC 31-17-3 **before its repeal);** and

(3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

(e) A petition for an order for protection must be:

(1) verified or under oath under Trial Rule 11; and

(2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

SECTION 93. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 12-7-2-82.3; IC 31-9-2-23; IC 31-9-2-32; IC 31-9-2-33; IC 31-9-2-34; IC 31-9-2-35; IC 31-9-2-59; IC 31-9-2-81; IC 31-9-2-128; IC 31-17-3; IC 31-33-8-14; IC 31-33-12; IC 31-33-13; IC 31-33-17; IC 31-33-19; IC 31-33-20; IC 31-34-8-4.

SECTION 94. [EFFECTIVE JULY 1, 2007] **(a) Notwithstanding IC 31-33-26-13 and IC 31-33-26-16(c), both as added by this act, the department of child services is not required to adopt rules described under those statutes until July 1, 2011.**

(b) Notwithstanding IC 31-33-26-13, as added by this act, the department of child services shall adopt written policies governing administrative reviews and hearings relating to substantiated determinations of child abuse or neglect under IC 31-33-26-9, as added by this act, including the availability of judicial review of final decisions of the department of child services under IC 4-21.5-5. Rules adopted by the department under IC 31-33-26-13, as added by this act, supersede written policies governing the same subject.

(c) Notwithstanding IC 31-33-26-16(c), as added by this act, the department of child services shall adopt written policies governing the disclosure of information under IC 31-33-26-16, as added by this act. Rules adopted by the department of child services governing the disclosure of information under IC 31-33-26-16, as added by this act, supersede written policies governing the same subject.

(d) This SECTION expires July 2, 2011.

SECTION 95. **An emergency is declared for this act.**

(Reference is to ESB 328 as reprinted April 10, 2007.)

C. LAWSON	WELCH
SIPES	BELL
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1663–1; filed April 25, 2007, at 5:12 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1663 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-10-8-1, AS AMENDED BY SEA 526-2007, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The following definitions apply in this chapter:

(1) "Employee" means:

(A) an elected or appointed officer or official, or a full-time employee;

(B) if the individual is employed by a school corporation, a full-time or part-time employee;

(C) for a local unit public employer, a full-time or part-time employee or a person who provides personal services to the unit under contract during the contract period; or

(D) a senior judge appointed under IC 33-24-3-7;

whose services have continued without interruption at least thirty (30) days.

(2) "Group insurance" means any of the kinds of insurance fulfilling the definitions and requirements of group insurance contained in IC 27-1.

(3) "Insurance" means insurance upon or in relation to human life in all its forms, including life insurance, health insurance, disability insurance, accident insurance, hospitalization insurance, surgery insurance, medical insurance, and supplemental medical insurance.

(4) "Local unit" includes a city, town, county, township, public library, **municipal corporation (as defined in IC 5-10-9-1),** or school corporation.

(5) "New traditional plan" means a self-insurance program established under section 7(b) of this chapter to provide health care coverage.

(6) "Public employer" means the state or a local unit, including any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of either, having a payroll in relation to persons it immediately employs, even if it is not a separate taxing unit. With respect to the legislative branch of government, "public employer" or

"employer" refers to the following:

(A) The president pro tempore of the senate, with respect to former members or employees of the senate.

(B) The speaker of the house, with respect to former members or employees of the house of representatives.

(C) The legislative council, with respect to former employees of the legislative services agency.

(7) "Public employer" does not include a state educational institution.

(8) "Retired employee" means:

(A) in the case of a public employer that participates in the public employees' retirement fund, a former employee who qualifies for a benefit under IC 5-10.3-8 or IC 5-10.2-4;

(B) in the case of a public employer that participates in the teachers' retirement fund under IC 5-10.4, a former employee who qualifies for a benefit under IC 5-10.4-5; and

(C) in the case of any other public employer, a former employee who meets the requirements established by the public employer for participation in a group insurance plan for retired employees.

(9) "Retirement date" means the date that the employee has chosen to receive retirement benefits from the employees' retirement fund.

SECTION 2. IC 12-7-2-82, AS AMENDED BY SEA 94-2007, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 82. "Facility" means the following:

(1) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-3.

(2) For purposes of IC 12-17-13, the meaning set forth in IC 12-17-13-2.

(3) For purposes of IC 12-26, **a hospital, a health and hospital corporation established under IC 16-22-8,** a psychiatric hospital, a community mental health center, another institution, a program, a managed care provider, or a child caring institution:

(A) where an individual with a mental illness can receive rehabilitative treatment, or habilitation and care, in the least restrictive environment suitable for the necessary care, treatment, and protection of the individual and others; and

(B) that has adequate space and treatment staff appropriate to the needs of the individual as determined by the superintendent of the facility.

The term includes all services, programs, and centers of the facility, wherever located.

(4) For purposes of IC 12-15-32, the meaning set forth in IC 12-15-32-1.

SECTION 3. IC 16-22-8-31, AS AMENDED BY P.L.138-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. (a) The director of the division of public health has the powers, functions, and duties of a local health officer.

(b) Orders, citations, and administrative notices of violation issued by the director of the division of public health, the director's authorized representative, a supervisor in the division, or an environmental health specialist may be enforced by the corporation in a court with jurisdiction by filing a civil action in accordance with IC 16-42-5-28, IC 33-36-3-5(b), **IC 34-28-5-1,** ~~or~~ IC 36-1-6-4, **or IC 36-7-9-17.**

(c) A public health authority may petition a circuit or superior court for an order of isolation or quarantine by filing a civil action in accordance with IC 16-41-9.

(d) Unless otherwise provided by law, a change of venue from the county may not be granted for court proceedings initiated under this section.

(e) A change of venue from a judge must meet the requirements in IC 34-35-3-3 for court proceedings initiated under this section.

SECTION 4. IC 16-22-8-34, AS AMENDED BY HEA 1084-2007, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, sue and be sued in any court with jurisdiction.

(2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.

(3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:

(A) To protect property owned or managed by the corporation.

(B) To determine, prevent, and abate public health nuisances.

(C) To establish **isolation and** quarantine regulations ~~impose restrictions on persons having infectious or contagious diseases and contacts of the persons, and regulate the disinfection of premises.~~ **in accordance with IC 16-41-9.**

(D) To license, regulate, and establish minimum sanitary standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.

(E) To control:

(i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and

(ii) the animals' breeding places.

(F) To require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation have no jurisdiction over publicly owned or financed sewer systems or sanitation and disposal plants.

(G) To control rabies.

(H) For the sanitary regulation of water supplies for domestic use.

(I) To protect, promote, or improve public health. For public health activities and to enforce public health laws, the state health data center described in IC 16-19-10 shall provide health data, medical information, and epidemiological information to the corporation.

(J) To detect, report, prevent, and control disease affecting public health.

(K) To investigate and diagnose health problems and health hazards.

(L) To regulate the sanitary and structural conditions of residential and nonresidential buildings and unsafe premises.

(M) To regulate the remediation of lead hazards.

~~(M)~~ **(N)** To license and regulate the design, construction, and operation of public pools, spas, and beaches.

~~(N)~~ **(O)** To regulate the storage, containment, handling, use, and disposal of hazardous materials.

~~(O)~~ **(P)** To license and regulate tattoo ~~parlors~~ and body piercing facilities.

(Q) To regulate the storage and disposal of waste tires.

(4) To manage the corporation's hospitals, medical

facilities, and mental health facilities.

(5) To ~~furnish~~ **provide school based** health ~~and nursing~~ services. ~~to elementary and secondary schools within the county.~~

(6) To furnish medical care to ~~the indigent within~~ **insured and uninsured residents of** the county. ~~unless medical care is furnished to the indigent by the division of family resources.~~

(7) To ~~determine the~~ **establish** public health ~~policies and~~ programs. ~~to be carried out and administered by the corporation.~~

(8) To adopt an annual budget ordinance and levy taxes.

(9) To incur indebtedness in the name of the corporation.

(10) To organize ~~the personnel and functions of~~ the corporation into divisions. ~~and subdivisions to carry out the corporation's powers and duties and to consolidate, divide, or abolish the divisions and subdivisions.~~

(11) To acquire and dispose of property.

(12) To receive charitable contributions and gifts as provided in 26 U.S.C. 170.

(13) To make charitable contributions and gifts.

(14) To establish a charitable foundation as provided in 26 U.S.C. 501.

(15) To receive and distribute federal, state, local, or private grants.

(16) To receive and distribute grants from charitable foundations.

(17) To establish ~~nonprofit~~ corporations **and enter into partnerships and joint ventures** to carry out the purposes of the corporation. **This subdivision does not authorize the merger of the corporation with a hospital licensed under IC 16-21.**

(18) To erect, **improve, remodel, or repair corporation** buildings. ~~or structures or improvements to existing buildings or structures.~~

(19) To determine ~~matters of policy regarding internal organization and~~ operating procedures.

(20) To do the following:

(A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.

(B) Collect the charges from the patient, **the patient's insurance company,** or ~~from the governmental unit where the patient resided at the time of the service.~~ **a government program.**

(C) Require security for the payment of the charges.

(21) To adopt a schedule of and to collect reasonable charges for ~~patients able to pay in full or in part.~~ **medical and mental health services.**

(22) To enforce Indiana laws, administrative rules, **ordinances,** and the code of the health and hospital corporation of the county.

(23) To purchase supplies, materials, and equipment. ~~for the corporation.~~

(24) To employ personnel and establish personnel policies. ~~to carry out the duties, functions, and powers of the corporation.~~

(25) To employ attorneys admitted to practice law in Indiana.

(26) To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.

(27) To dispose of surplus property in accordance with a policy by the board.

(28) To determine the duties of officers and division directors.

(29) To fix the compensation of the officers and division directors.

(30) To carry out the purposes and object of the corporation.

(31) To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

(32) To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees.

(33) To use levied taxes or other funds to make intergovernmental transfers to the state to fund governmental health care programs, including Medicaid and Medicaid supplemental programs.

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

SECTION 5. IC 16-22-8-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 42. If the ~~board~~ **corporation** and the owner of real property desired for **a** hospital, **a health care facility,** or ~~other purposes in carrying out this chapter~~ **an administrative facility** cannot agree on the price, the corporation has the right to condemn. Condemnation proceedings may be instituted in the name of the corporation under IC 32-24.

SECTION 6. IC 16-22-8-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 43. (a) The ~~board~~ **corporation** may issue general obligation bonds ~~of the corporation~~ to procure funds to pay the cost of acquiring real property or constructing, enlarging, improving, remodeling, repairing, or equipping buildings ~~and other structures~~ for use as ~~or in connection with hospitals, clinics, health centers, dispensaries,~~ **a hospital, a health care facility,** or ~~for~~ **an** administrative ~~purposes.~~ **facility.** The issuance of the bonds shall be authorized by ~~ordinance of the~~ **a** board **resolution** providing for the amount, terms, and tenor of the bonds, for the time and character of notice, and the mode of making the sale. The bonds shall be payable not more than forty (40) years after the date of issuance. ~~and~~ **The bonds** shall be executed in the name of the corporation by the ~~chairman of the board and attested by the~~ executive director. ~~who shall affix to each of the bonds the official seal of the corporation. The interest coupons attached to the bonds may be executed by facsimile signature of the chairman of the board.~~

(b) The executive director shall manage and supervise the preparation, advertisement, and sale of bonds, subject to the provisions of the authorizing ~~ordinance.~~ **resolution.** Before the sale of the bonds, the executive director shall publish notice of the sale in accordance with IC 5-3-1, setting out the time and place where bids will be received, the amount and maturity dates of the issue, the maximum interest rate, and the terms and conditions of sale and delivery of the bonds. The bonds shall be sold to the highest and best bidder. After the bonds have been sold and executed, the executive director shall deliver the bonds to the treasurer of the corporation and take the treasurer's receipt, and shall certify to the treasurer the amount that the purchaser is to pay, together with the name and address of the purchaser. On payment of the purchase price, the treasurer shall deliver the bonds to the purchaser, and the treasurer and executive director shall report the actions to the board.

(c) IC 5-1 and IC 6-1.1-20 apply to the following proceedings:

(1) Notice and filing of the petition requesting the issuance of the bonds.

(2) Notice of determination to issue bonds.

(3) Notice of hearing on the appropriation of the proceeds of the bonds and the right of taxpayers to appeal and be heard.

(4) Approval by the department of local government finance.

(5) The right to remonstrate.

(6) Sale of bonds at public sale for not less than the par value.

(d) The bonds are the direct general obligations of the corporation and are payable out of unlimited ad valorem taxes levied and collected on all the taxable property within the county of the corporation. All officials and bodies having to do with the levying of taxes for the corporation shall see that sufficient levies are made to meet the principal and interest on the bonds at the time fixed for payment.

(e) The bonds are exempt from taxation for all purposes but the interest is subject to the adjusted gross income tax.

SECTION 7. IC 32-21-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** For a conveyance, a mortgage, or an instrument of writing to be recorded, it must be:

(1) acknowledged by the grantor; or

(2) proved before a:

(A) judge;

(B) clerk of a court of record;

(C) county auditor;

(D) county recorder;

(E) notary public;

(F) mayor of a city in Indiana or any other state;

(G) commissioner appointed in a state other than Indiana by the governor of Indiana;

(H) minister, charge d'affaires, or consul of the United States in any foreign country;

(I) clerk of the city county council for a consolidated city, city clerk for a second class city, or clerk-treasurer for a third class city;

(J) clerk-treasurer for a town; or

(K) person authorized under IC 2-3-4-1.

(b) In addition to the requirements under subsection (a), a conveyance may not be recorded after June 30, 2007, unless it meets the requirements of this subsection. If the mailing address on the conveyance is not a street address or a rural route address of the grantee, the conveyance must also include a street address or rural route address of the grantee after the mailing address.

SECTION 8. IC 36-1-6-2, AS AMENDED BY P.L.88-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, employees or contractors of a municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity of at least ten (10) days but not more than sixty (60) days to bring the property into compliance. If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. The lien attaches when notice of the lien is recorded in the office of the county recorder in which the property is located. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

(1) ~~two thousand five hundred dollars ($2,500)~~ **ten thousand dollars ($10,000)** for real property that:

(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) ~~ten thousand dollars ($10,000)~~ **twenty thousand dollars ($20,000)** for all other real property not described in subdivision (1).

(b) The municipal corporation may issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) A bill issued under subsection (b) is delinquent if the owner of the real property fails to pay the bill within thirty (30) days after the date of the issuance of the bill.

(d) Whenever a municipal corporation determines it necessary, the officer charged with the collection of fees and penalties for the municipal corporation shall prepare:

(1) a list of delinquent fees and penalties that are enforceable under this section, including:

(A) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

(B) a description of the premises, as shown on the records of the county auditor; and

(C) the amount of the delinquent fees and the penalty; or

(2) an instrument for each lot or parcel of real property on which the fees are delinquent.

(e) The officer shall record a copy of each list or each instrument with the county recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in IC 36-2-7-10.

(f) The amount of a lien shall be placed on the tax duplicate by the auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

(g) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the municipal corporation shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be considered a bad debt loss.

(h) The municipal corporation shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a written demand from the purchaser or a representative of the title insurance company or the title insurance company's agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

(i) The county auditor shall remove the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner upon receipt of a copy of the written demand under subsection (h).

SECTION 9. IC 36-1-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. **(a)** A municipal corporation may bring a civil action ~~to enjoin any~~ **as provided in IC 34-28-5-1 if a** person: ~~from:~~

(1) ~~violating~~ **violates** an ordinance regulating or prohibiting a condition or use of property; or

(2) ~~engaging~~ **engages** in conduct without a license **or permit** if an ordinance requires a license **or permit** to engage in the conduct.

(b) A court may take any appropriate action in a proceeding under this section, including any of the following actions:

(1) Issuing an injunction.

(2) Entering a judgment.

(3) Ordering an inspection.

(4) Ordering a property vacated.

(5) Imposing a penalty not to exceed an amount set forth in IC 36-1-3-8(a)(10).

(6) Imposing court costs and fees in accordance with IC 33-37-4-2 and IC 33-37-5.

(7) Ordering a defendant to take appropriate action to bring a property into compliance with an ordinance within a specified time.

(8) Ordering a municipal corporation to take appropriate action to bring a property into compliance with an ordinance in accordance with IC 36-1-6-2.

SECTION 10. IC 36-1-10-1, AS AMENDED BY P.L.2-2006, SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to:

(1) political subdivisions and agencies of political subdivisions that determine to acquire structures, transportation projects, or systems by lease or lease-purchase;

(2) a convention and visitor bureau established under IC 6-9-2 that determines to acquire a visitor center by lease or lease purchase; and

(3) a convention and visitor commission established by IC 6-9-11 that determines to acquire a sports and recreation facility by lease or lease purchase.

(b) This chapter does not apply to:

(1) the lease of library buildings under IC 36-12-10, unless the library board of the public library adopts a resolution to proceed under this chapter instead of IC 36-12-10;

(2) the lease of school buildings under IC 20-47;

~~(3) county hospitals organized or operating under IC 16-22-1 through IC 16-22-5;~~

~~(4) municipal hospitals organized or operating under IC 16-23-1; or~~

(3) a hospital established and operated under IC 16-22 or IC 16-23;

(4) a health and hospital corporation established and operated under IC 16-22-8; or

(5) boards of aviation commissioners established under IC 8-22-2.

SECTION 11. IC 36-1-10.5-1, AS AMENDED BY P.L.2-2006, SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to:

(1) political subdivisions; and

(2) their agencies.

(b) This chapter does not apply to the purchase of:

(1) real property having a total price (including land and structures, if any) of twenty-five thousand dollars ($25,000) or less;

(2) airport land or structures under IC 8-22;

(3) library land or structures under IC 36-12;

(4) school land or structures under IC 20-47;

(5) hospital land or structures by ~~hospitals~~ **a hospital or health and hospital corporation** ~~organized or~~ **established and** operated under ~~IC 16-22-1 through IC 16-22-5 or IC 16-23-1,~~ **IC 16-22 or IC 16-23;**

(6) land or structures acquired for a road or street right-of-way for a federal-aid project funded in any part under 23 U.S.C. 101 et seq.;

(7) land or structures by redevelopment commissions under IC 36-7-14 or IC 36-7-15.1, or redevelopment authorities under IC 36-7-14.5; or

(8) land by a municipally owned water utility, if:

(A) the municipally owned water utility has performed or contracted with another party to perform sampling and drilling tests of the land; and

(B) the sampling and drilling tests indicate the land has water resources.

SECTION 12. IC 36-7-9-25, AS AMENDED BY P.L.169-2006, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 25. (a) Notice of orders, notice of continued hearings without a specified date, notice of a statement that public bids are to be let, and notice of claims for payment must be given by:

(1) sending a copy of the order or statement by registered or certified mail to the residence or place of business or employment of the person to be notified, with return receipt requested;

(2) delivering a copy of the order or statement personally to the person to be notified; ~~or~~

(3) leaving a copy of the order or statement at the dwelling or usual place of abode of the person to be notified and sending by first class mail a copy of the order or statement to the last known address of the person to be notified; **or**

(4) sending a copy of the order or statement by first class mail to the last known address of the person to be notified.

If a notice described in subdivision (1) is returned undelivered, a copy of the order or statement must be given in accordance with subdivision (2), (3), or (4).

(b) If service is not obtained by a means described in subsection (a) and the hearing authority concludes that a reasonable effort has been made to obtain service, service may be made by publishing a notice of the order or statement in accordance with IC 5-3-1 in the county where the unsafe premises are located. However, publication may be made on consecutive days. If service of an order is made by publication, the publication must include the information required by subdivisions (1), (2), (4), (5), (6), (7), and (9) of section 5(b) of this chapter, and must also include a statement indicating generally what action is required by the order and that the exact terms of the order may be obtained from the enforcement authority. The hearing authority may make a determination about whether a reasonable effort has been made to obtain service by the means described in subsection (a) on the basis of information provided by the department (or, in the case of a consolidated city, the enforcement authority). The hearing authority is not required to make the determination at a hearing. The hearing authority must make the determination in writing.

(c) When service is made by any of the means described in this section, except by mailing or by publication, the person making service must make an affidavit stating that ~~he~~ **the person** has made the service, the manner in which service was made, to whom the order or statement was issued, the nature of the order or statement, and the date of service. The affidavit must be placed on file with the enforcement authority.

(d) The date when notice of the order or statement is considered given is as follows:

(1) If the order or statement is delivered personally or left at the dwelling or usual place of abode, notice is considered given on the day when the order or statement is delivered to the person or left at the person's dwelling or usual place of abode.

(2) If the order or statement is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the enforcement authority.

(3) Notice by publication is considered given on the date of the second day that publication was made.

(e) A person with a property interest in an unsafe premises who does not:

(1) record an instrument reflecting the interest in the recorder's office of the county where the unsafe premises is located; or

(2) if an instrument reflecting the interest is not recorded, provide to the department (or, in the case of a consolidated city, the enforcement authority) in writing the person's name and address and the location of the unsafe premises;

is considered to consent to reasonable action taken under this chapter for which notice would be required and relinquish a claim to notice under this chapter.

(f) The department (or, in the case of a consolidated city, the enforcement authority) may, for the sake of administrative convenience, publish notice under subsection (b) at the same time notice is attempted under subsection (a). If published notice is given as described in subsection (b), the hearing authority shall subsequently make a determination about whether a reasonable effort has been made to obtain service by the means described in subsection (a).

SECTION 13. IC 36-7-9-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 29. (a) This section applies to a person if:**

(1) an order is issued to the person under this chapter requiring action related to an unsafe premises:

(A) owned by the person and leased to another person; or

(B) being purchased by the person under a contract and leased to another person;

(2) a hearing on the order was not requested under section 5(b)(6) of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and

(3) either:

(A) the order is not being reviewed under section 8 of this chapter; or

(B) after review by the circuit or superior court, the court entered a judgment against the person.

(b) A person described in subsection (a) must provide to the department (or, in the case of a consolidated city, the enforcement authority) in writing the person's name, street address (excluding a post office box address), and phone number.

SECTION 14. IC 16-22-8-36 IS REPEALED [EFFECTIVE JULY 1, 2007].

(Reference is to EHB 1663 as reprinted March 30, 2007.)

DAY	MILLER
BUELL	BREAUX
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 104–1; filed April 25, 2007, at 6:02 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 104 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 4, delete lines 7 through 37.

(Reference is to ESB 104 as printed April 3, 2007.)

C. LAWSON	SUMMERS
SIPES	WALORSKI
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 232–1; filed April 25, 2007, at 6:11 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 232 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 2, line 21, delete "if :" and insert "**. If:**".

Page 2, line 29, delete "a valid recording, which" and insert "**validly recorded and**".

Page 2, after line 30, begin a new paragraph and insert:

"SECTION 3. IC 32-28-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 14. Homeowners Association Liens

Sec. 1. As used in this chapter, "common expenses" means:

(1) all sums lawfully assessed against a subdivision by a homeowners association;

(2) expenses of:

(A) administration;

(B) maintenance;

(C) repair; or

(D) replacement;

of subdivision common areas and facilities;

(3) expenses agreed upon as common expenses by a homeowners association; and

(4) expenses declared common expenses by the bylaws or another written instrument of a homeowners association.

Sec. 2. As used in this chapter, "homeowners association" means all the owners of real estate in a subdivision acting as an entity in accordance with any:

(1) bylaws;

(2) covenants; or

(3) other written instruments;

of the homeowners association.

Sec. 3. As used in this chapter, "real estate" means a right, a title, or an interest in real property.

Sec. 4. As used in this chapter, "subdivision" means the division of a parcel of land into lots, parcels, tracts, units, or interests in the manner defined and prescribed by a subdivision control ordinance adopted by a legislative body under IC 36-7-4.

Sec. 5. (a) All sums assessed by a homeowners association but unpaid for the share of the common expenses chargeable to an owner of real estate in a subdivision constitute a homeowners association lien on the real estate effective as provided in section 6 of this chapter.

(b) The priority of a homeowners association lien is established on the date the notice of the lien is recorded under section 6 of this chapter.

(c) A notice of lien may not be recorded under subsection (a) unless the notice of lien:

(1) contains:

(A) the name and address of the homeowners association;

(B) the address and legal description of the property that is subject to the lien;

(C) the name of the owner of the property that is subject to the lien; and

(D) the amount of the lien; and

(2) is:

(A) signed by an officer of the homeowners association; and

(B) acknowledged as in the case of deeds.

Sec. 6. (a) A homeowners association lien under this chapter attaches to real estate upon the recording of a notice of lien by the homeowners association in the office of the recorder of the county in which the real estate is located.

(b) A homeowners association lien under this chapter attaches on the date of the recording of the notice of the lien under subsection (a) and does not relate back to:

(1) a date specified in the bylaws, the covenants, or another written instrument of the homeowners

association; or

(2) the date the common expenses were assessed.

Sec. 7. (a) Except as provided in subsection (b), in a voluntary conveyance, the grantee of real estate is jointly and severally liable with the grantor for all unpaid assessments against the grantor for the grantor's share of the common expenses incurred before the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts of common expenses paid by the grantee.

(b) The grantee:

(1) is entitled to a statement from the manager, board of directors, or other governing authority of the homeowners association that sets forth the amount of the unpaid assessments against the grantor; and

(2) is not liable for, and the real estate conveyed is not subject to a homeowners association lien for, any unpaid assessments against the grantor unless the lien for unpaid assessments is recorded under section 6 of this chapter before recording the deed by which the grantee takes title.

(c) If the mortgagee of a first mortgage of record or other purchaser of real estate obtains title to the real estate as a result of foreclosure of the first mortgage, the acquirer of title or the acquirer's successors and assigns are not liable for the share of the common expenses or assessments by the homeowners association chargeable to the real estate that became due before the acquisition of title to real estate by the acquirer. The unpaid share of common expenses or assessments is considered to be common expenses collectible from all of the owners of real estate in the subdivision, including the acquirer or the acquirer's successors and assigns.

Sec. 8. (a) A homeowners association may enforce a homeowners association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located. The complaint must be filed not later than one (1) year after the date the statement and notice of intention to hold a lien was recorded under section 6 of this chapter.

(b) If a lien is not enforced within the time set forth in subsection (a), the lien is void.

(c) If a lien is foreclosed under this chapter, the court rendering judgment shall order a sale to be made of the real estate subject to the lien. The officers making the sale shall sell the real estate without any relief from valuation or appraisement laws.

Sec. 9. (a) A homeowners association lien under this chapter is void if both of the following occur:

(1) The owner of the real estate subject to the homeowners association lien or any person or corporation having an interest in the real estate, including a mortgagee or a lienholder, provides written notice to the owner or holder of the lien to file an action to foreclose the lien.

(2) The owner or holder of the lien fails to file an action to foreclose the lien in the county where the real estate is located within thirty (30) days after the date the owner or holder of the lien received the notice described in subdivision (1).

However, this section does not prevent the claim from being collected as other claims are collected by law.

(b) A person who gives notice under subsection (a)(1) by registered or certified mail to the owner or holder of the homeowners association lien at the address given in the recorded statement may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the real estate is located. The affidavit must state the following:

(1) The facts of the notice.

(2) That more than thirty (30) days have passed since the notice was received by the owner or holder of the lien.

(3) That an action for foreclosure of the lien is not pending.

(4) That an unsatisfied judgment has not been rendered on the lien.

(c) The recorder shall record the affidavit of service in the miscellaneous record book of the recorder's office. When the recorder records the affidavit under this subsection, the real estate described in the homeowners association lien is released from the lien.

(d) An affidavit recorded under subsection (c) must cross reference the lien.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 232 as reprinted April 10, 2007.)

ZAKAS	PIERCE
LANANE	FOLEY
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1256 because it conflicts with SEA 526-2007 without properly recognizing the existence of SEA 526-2007, has had Engrossed House Bill 1256 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1256 be corrected as follows:

Page 1, line 1, delete "IC 20-12-23-60" and insert "IC 21-27-4-4".

Page 1, line 3, delete "Sec. 60." and insert "**Sec. 4.**".

Page 1, line 17, delete "IC 20-12-38-2" and insert "IC 21-27-7-6".

Page 2, line 2, delete "Sec. 2." and insert "**Sec. 6.**".

Page 2, line 16, delete "IC 20-12-56-8" and insert "IC 21-27-5-4".

Page 2, line 18, delete "Sec. 8." and insert "**Sec. 4.**".

Page 2, line 31, delete "IC 20-12-57.5-12" and insert "IC 21-27-3-5".

Page 2, line 33, delete "Sec. 12." and insert "**Sec. 5.**".

Page 4, line 13, delete "IC 20-12-64-15" and insert "IC 21-27-8-7".

Page 4, line 15, delete "Sec. 15." and insert "**Sec. 7.**".

Page 4, line 28, delete "IC 23-13-18-30" and insert "IC 21-27-9-6".

Page 4, line 30, delete "Sec. 30." and insert "**Sec. 6.**".

Page 5, after line 1, begin a new paragraph and insert:

"SECTION 8. IC 21-27-6-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. (a) The board of trustees shall create a diversity committee at the home campus and at each regional campus to do the following:**

(1) Review and recommend faculty employment policies concerning diversity issues.

(2) Review faculty and administration personnel complaints concerning diversity issues.

(3) Make recommendations to promote and maintain cultural diversity among faculty members.

(4) Make recommendations to promote recruitment and retention of minority students.

(b) The diversity committee shall issue an annual report stating the findings, conclusions, and recommendations of the committee to the state board.".

Renumber all sections consecutively.

(Reference is to EHB 1256 as printed April 6, 2007.)

PELATH, Chair
WHETSTONE, R.M.M.
V. SMITH, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1324 because it conflicts with SEA526-2007 without properly recognizing the existence of SEA 526-2007, has had Engrossed House Bill 1324 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1324 be corrected as follows:

Page 2, line 5, after "IC 25-37.5-1-2" insert ", AS AMENDED BY SEA 526-2007, SECTION 350,".

Page 3, line 11, delete "an" and insert "~~a postsecondary educational~~".

Page 3, line 11, delete "institution of higher" and insert "~~institution.~~".

Page 3, delete line 12.

(Reference is to EHB 1324 as reprinted March 30, 2007.)

PELATH, Chair
WHETSTONE, R.M.M.
CROOKS, Author

Report adopted.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee reports may be eligible for consideration after April 11, 2007: Engrossed Senate Bills 94–1, 534–1, and 568–1 and Engrossed House Bill 1116–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports for Engrossed Senate Bills 94–1, 534–1, and 568–1 and Engrossed House Bill 1116–1 are eligible for consideration after April 11, 2007.

PELATH

Motion prevailed.

Engrossed Senate Bill 94–1

The conference committee report was reread. Roll Call 585: yeas 96, nays 0. Report adopted.

Engrossed Senate Bill 534–1

The conference committee report was reread. Roll Call 586: yeas 96, nays 0. Report adopted.

Engrossed Senate Bill 568–1

The conference committee report was reread. Representatives Buell, Duncan, Moses, and Pond were excused from voting, pursuant to House Rule 46. Roll Call 587: yeas 89, nays 1. Report adopted.

Engrossed House Bill 1116–1

The conference committee report was reread. Roll Call 588: yeas 83, nays 13. Report adopted.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 84

Representatives McClain and Hinkle introduced House Concurrent Resolution 84:

A CONCURRENT RESOLUTION urging the Department of Transportation to name State Highway 29 in Carroll County the "Trooper Paul Minneman Memorial Highway".

Whereas, Trooper Paul Vincent Minneman was born and raised on his father's farm in northeast Carroll County, Indiana, and became an Indiana State Trooper on September 1, 1935;

Whereas, On May 25, 1937, Trooper Paul Minneman and Deputy Elmer Craig attempted to apprehend the Al Brady Gang, a group accused of robbing a bank in Goodland, Indiana;

Whereas, J. Edgar Hoover is alleged to have described the Al Brady Gang as the "most vicious and dangerous gang in history";

Whereas, In giving chase, Trooper Minneman was shot 20 times and succumbed to his injuries, leaving behind his wife Margaret and their unborn child, Pauline;

Whereas, Trooper Minneman became the second Indiana State Trooper to die in the line of duty and the first to die from a criminal's bullets; and

Whereas, Trooper Paul Minneman is an American hero who gave his life in service to our state and country and deserves recognition: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly recognizes and honors the service and sacrifice of State Trooper Paul Minneman.

SECTION 2. That the Indiana General Assembly urges the Indiana Department of Transportation to name State Highway 29 in Carroll County as the "Trooper Paul Minneman Memorial Highway".

SECTION 3. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to the family of Paul Minneman and the Commissioner of the Indiana Department of Transportation.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Weatherwax.

House Concurrent Resolution 85

Representatives Orentlicher and Avery introduced House Concurrent Resolution 85:

A CONCURRENT RESOLUTION recognizing the importance of international education.

Whereas, Congress declared 2006 the Year of Study Abroad, recognizing the need to educate future American leaders toward a global economic future, to increase global understanding, and to lead to better security;

Whereas, Multiple states have endorsed the creation of resolutions to support study abroad, and Indiana officially recognizes the significant contribution to study abroad that Indiana students have already made;

Whereas, According to the Institute of International Education's (IIE) Open Doors national survey of colleges and universities, 7,369 university students from Indiana studied abroad in 2004-2005, the last year for which statistics are available;

Whereas, Institutions of higher education in Indiana have been leaders in the commitment to study abroad with Indiana

ranking eleventh in the nation for the number of students studying abroad;

Whereas, The leading destinations for students studying abroad nationally are the United Kingdom, Italy, Spain, France, Australia, Mexico, Germany, China, Ireland, Costa Rica, and Japan;

Whereas, Indiana recognizes the need to support these links for cultural understanding and commerce;

Whereas, According to a 2005 random survey sponsored by NAFSA and the Association of International Educators, 77 percent of adults in the United States agree that students should have a study abroad experience during college;

Whereas, The economic importance of trade between Indiana and the rest of the world has been tracked and established by the international trade division of the Indiana department of commerce whose figures indicate that Indiana had $13,000,000,000 in exports in 2004 and has 13 international trade offices worldwide;

Whereas, Indiana has 45 institutions of higher education and, according to IIE's Open Doors Report for 2005-2006, Indiana received 13,992 international students, up 6.4 percent from 2004-2005 and ranking tenth nationwide;

Whereas, These international students and their families contributed over $302,400,000 in tuition, fees, and living expenses to Indiana's economy;

Whereas, Purdue University ranked third and Indiana University ranked seventeenth in total international student enrollment among United States colleges and universities;

Whereas, Indiana welcomes people from around the world who choose to come to our state for education, work, or visiting and values the benefits of contact that people in our state receive from working, living, and studying with people from different countries;

Whereas, Indiana recognizes the importance of a diverse population and workforce in maintaining and attracting population and general commerce to our state as well as ensuring a globally focused population; and

Whereas, Hoosiers recognize the necessity of attracting and retaining diversity in our communities, workforce, and institutions of higher education, and we recognize the benefits of retaining our globally competent college graduates in our state: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly encourages and recommends students and faculty to promote international education as part of curricular and extracurricular life at the state's public and private colleges and universities.

SECTION 2. That the state supports international educational endeavors in higher education and, by doing so, contributes to global awareness among public officials, business leaders, educators, and all residents of Indiana.

SECTION 3. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Governor Mitch Daniels and the presidents of all Indiana colleges and universities.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Howard.

House Resolution 81

Representative Pelath introduced House Resolution 81:

A HOUSE RESOLUTION honoring Jeanette Neagu for her tireless efforts to ensure the sanctity of the state of Indiana.

Whereas, Jeanette Neagu is a dedicated member of her community, providing her leadership and commitment to Northern Indiana;

Whereas, Jeanette Neagu is a mental therapist by profession, she is a strong supporter of environmental causes and has made it her life's work to advance these worthy endeavors;

Whereas, Jeannette Neagu is a longtime advocate of establishing and maintaining the Indiana Dunes National Lakeshore and of recognizing the Great Lakes as an international treasure;

Whereas, Jeannette Neagu organized a public meeting in Gary to get public input and testimony on behalf of the Great Lakes Restoration Collaboration in an effort to influence legislators to recognize the importance of this cause;

Whereas, Jeanette Neagu has worked diligently to enact legislation to require ships that discharge ballast water into the Great Lakes be treated before it is discharged to prevent the introduction of aquatic invasive species into native species' habitat;

Whereas, As an active member of her community, Jeanette Neagu is the president of the Lake Michigan chapter of the League of Women Voters and a member of the LaPorte County League of Women Voters,

Whereas, Jeannette Neagu is the Indiana League of Women's Voters Chairman of the Voter Reform Committee, as well as serving on the board of directors;

Whereas, Jeannette Neagu is an active with the Intercoastal Council, the Hoosier Environmental Council, and the Save the Dunes Council;

Whereas, Jeanette Neagu was a co-host on the environmental program, "This is Your Land", for many years;

Whereas, Jeanette Neagu, along with her husband, George, are proud recipients of the Backyard Wildlife Habitat designation, a certification that requires that such a habitat provide food for animals;

Whereas, Jeanette Neagu has been honored with the Isaac Walton League Environmental Achievement Award from the state league and the Paul H. Douglas Memorial Award from the Save the Dunes Council; and

Whereas, Jeanette Neagu is a champion of women's rights and the environmental protections necessary to the preservation of an invaluable resource such as the Great Lakes: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives expresses its sincere appreciation for her years of service to the citizens of the Great Lakes region and the state of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to her husband, George Neagu.

The resolution was read a first time and adopted by voice vote.

House Resolution 82

Representatives Duncan and Denbo introduced House Resolution 82:

A HOUSE RESOLUTION recognizing Greek Independence Day.

Whereas, On March 25, 1821, the Feast Day of the Annunciation, the Greek nation reclaimed its ancient heritage as the "Cradle of Democracy" by overthrowing the yoke of

oppression that had enslaved its people since the fall of Constantinople in 1453;

Whereas, Conquered by the Ottoman Turks in the 15th century, Greece waged a successful War of Independence (1821-1829) and reinstituted a democratic form of government;

Whereas, It was the genius of Greece that first ignited the flame of freedom in the 5th and 6th centuries B.C. when Athens introduced the idea of a direct representative government to the world, thus ushering in a Golden Age of Art, architecture, philosophy, and drama under such giants of western history as Pericles, Sophocles, Euripedes, Socrates, and Plato;

Whereas, The Founding Fathers of the United States of America drew extensively upon the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas, It is proper and desirable to celebrate with the Greek people and to reaffirm the democratic principles from which our two great nations were born;

Whereas, President George W. Bush, in recognizing Greek Independence Day, said "Greece and America have been firm allies in the great struggles for liberty. Americans will always remember Greek heroism and Greek sacrifice for the sake of liberty and as the 21st century dawns, Greece and America once again stand united; this time in the fight against terrorism. The United States deeply appreciates the role Greece is playing in the war against terror. America and Greece are strong allies, and we're strategic partners.";

Whereas, Greece is only one of three nations in the world, beyond the former British Empire, that has been allied with the United States in every major international conflict in the last 100 years;

Whereas, United States Under Secretary of State for Political Affairs Nicholas Burns thanked the Greek government and its people for their help in Afghanistan;

Whereas, The combat engineers and medical personnel Greece sent to Afghanistan have played a crucial role in defeating terrorism and helping to create a stable democracy in Afghanistan;

Whereas, Historically the Greeks have been persecuted by the Turkish government, and Greeks living in Turkey have had their basic rights and freedoms taken away from them, which is a form of persecution that continues today; and

Whereas, The government of Turkey refuses to recognize the rights and religious freedoms of the Ecumenical Patriarchate, head of the Greek Orthodox Christian Church, which is a minority religion in Turkey: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives celebrates March 25, 2007, as the 186th anniversary of Greek Independence, reaffirms Indiana's abiding commitment to the magnificent principles of democracy and religious freedom, and urges Turkey to respect the rights and religious freedoms of the Ecumenical Patriarchate.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Holy Trinity Church of Indianapolis, St. Demetrios Church of Hammond, Holy Trinity Church of Fort Wayne, Sts. Constantine and Helen Cathedral of Merrillville, St. George Greek Orthodox Church of Schererville, St. Andrew Church of South Bend, St. Iakovos Church of Valparaiso, the Indiana congressional delegation, and Archbishop Demetrios of the Greek Archdiocese of America.

The resolution was read a first time and adopted by voice vote.

House Resolution 83

Representative Richardson introduced House Resolution 83:

A HOUSE RESOLUTION honoring Sam McNew.

Whereas, Sam McNew, who lives in Noblesville and is a 2004 Hamilton Heights High School graduate, will represent the United States in power lifting in the Special Olympics International Games in Shanghai, China;

Whereas, Sam McNew has been a Special Olympics athlete for 14 years and won three gold medals and one silver medal in power lifting at the Special Olympics USA Games in July in Ames, Iowa;

Whereas, Sam McNew, the 2004 Special Olympics Indiana Athlete of the Year, has also competed in the National Special Olympics Unified Sports Bowling Tournament for the past six years;

Whereas, Sam McNew won the Hal Kaminski Award in 2006 in recognition of his support of Special Olympics and was chosen as the Honorary Starter for the Indy Pro Series at Indianapolis Motor Speedway where he proudly waved the green flag at the start of the race;

Whereas, In 1999, Sam McNew and his family were named the Special Olympics Indiana Family of the Year; and

Whereas, Sam McNew has excelled in his sport through dedication and hard work, which merits special recognition: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives recognizes Sam McNew for his dedication and hard work and congratulates him on his participation in the Special Olympics International Games in Shanghai, China.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Sam McNew and his family.

The resolution was read a first time and adopted by voice vote.

RESOLUTIONS ON SECOND READING

Senate Concurrent Resolution 31

The Speaker handed down on its passage Senate Concurrent Resolution 31, sponsored by Representatives C. Brown, Whetstone, Kuzman, Tincher, and Grubb.

The resolution was read a second time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the appointment of Representatives to conference committees on the following Engrossed Senate Bills:

ESB 559	Conferees:	Bardon and Ripley
	Advisors:	Pflum and Burton

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

EHB 1347	Advisor:	Stevenson
ESB 339	Advisor:	Stevenson

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 5:30 p.m. with the Speaker Pro Tempore, Representative Dobis, in the Chair.

Representatives Crawford, Espich, Goodin, Kuzman, and V. Smith were excused.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. Roll Call 589: 78 present.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed House Bill 1067.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed Senate Bills 220, 232, 328, and 329.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has concurred in the House amendments to Engrossed Senate Bills 267 and 559.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1075.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1256.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1301.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1324.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1387.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1424.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1427.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 29.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 345.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 524.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 43, 346, 347, and 472 for signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 75 and 83 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE GOVERNOR

Mr. Speaker and Members of the House: On April 26, 2007, I signed into law House Enrolled Acts 1059, 1060, 1193, 1211, 1241, 1264, 1306, 1338, 1468, 1508, and 1726.

MITCHELL E. DANIELS, JR.
Governor

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1058–1; filed April 26, 2007, at 2:44 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1058 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate

amendments to the bill and that the bill be further amended as follows:

Page 4, delete lines 34 through 42, begin a new paragraph and insert:

"SECTION 3. IC 36-1-11-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.7. (a) As used in this section, "political subdivision":**

(1) before July 1, 2008, does not include a township in a county having a consolidated city; and

(2) after June 30, 2008, refers to all political subdivisions.

(b) As used in this section, "volunteer fire department" has the meaning set forth in IC 36-8-12-2.

(c) Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a political subdivision may sell or transfer:

(1) real property; or

(2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses;

without consideration or for a nominal consideration to a volunteer fire department for construction of a fire station or other purposes related to firefighting.".

Delete page 5.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1058 as printed March 23, 2007.)

BISCHOFF	STEELE
BUCK	LEWIS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1452–1; filed April 26, 2007, at 2:51 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1452 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-39-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A provider may not charge a person for making and providing copies of medical records an amount greater than ~~provided in this chapter.~~ **the amount set in rules adopted by the department of insurance under section 4 of this chapter.**

SECTION 2. IC 16-39-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) As used in this section, "department" refers to the department of insurance created by IC 27-1-1-1.

(b) ~~Notwithstanding sections 1 and 2 of this chapter,~~ The department may adopt rules under IC 4-22-2 to ~~adjust~~ **set** the amounts that may be charged for copying records under this chapter. In adopting rules under this section, the department shall consider the following factors relating to the costs of copying medical records:

(1) The following labor costs:
(A) Verification of requests.
(B) Logging requests.
(C) Retrieval.
(D) Copying.
(E) Refiling.

(2) Software costs for logging requests.

(3) Expense costs for copying.

(4) Capital costs for copying.

(5) Billing and bad debt expenses.

(6) Space costs.

SECTION 3. IC 16-47-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The ~~following~~ **department** shall participate in the program

~~(1) The department,~~ for a health benefit plan:

~~(A)~~ **(1)** described in section 2(1), 2(2), or 2(3) of this chapter; and

~~(B)~~ **(2)** that provides coverage for prescription drugs.

~~(2) A state educational institution, for a health benefit plan:~~

~~(A) described in section 2(4) of this chapter; and~~

~~(B) that provides coverage for prescription drugs;~~

~~unless the budget agency determines that the state educational institution's participation in the program would not result in an overall financial benefit to the state educational institution.~~

(b) The following may participate in the program:

(1) A state agency other than the department that:
(A) purchases prescription drugs; or
(B) arranges for the payment of the cost of prescription drugs.

(2) A local unit (as defined in IC 5-10-8-1).

(3) The Indiana comprehensive health insurance association established under IC 27-8-10.

(4) A state educational institution for a health benefit plan:

(A) described in section 2(4) of this chapter; and

(B) that provides coverage for prescription drugs.

(c) The state Medicaid program may not participate in the program under this chapter.

SECTION 4. IC 20-12-22.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 22.3. Insurance Education Scholarship Fund

Sec. 1. As used in this chapter, "commission" refers to the state student assistance commission established by IC 20-12-21-4.

Sec. 2. As used in this chapter, "fund" refers to the insurance education scholarship fund established by section 5 of this chapter.

Sec. 3. As used in this chapter, "insurance student" means a student who studies or intends to study:

(1) insurance; or

(2) business with an emphasis on insurance.

Sec. 4. As used in this chapter,"state educational institution" has the meaning set forth in IC 20-12-0.5-1.

Sec. 5. (a) The insurance education scholarship fund is established to encourage and promote qualified individuals to pursue a career in insurance in Indiana.

(b) The fund consists of amounts deposited under IC 27-1-15.6-7.3.

Sec. 6. (a) The commission shall administer the fund.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from the investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 7. (a) The money in the fund shall be used to provide annual scholarships to insurance students who qualify under section 9 of this chapter. The commission shall determine the amount of money to be allocated from the fund for scholarships under this chapter.

(b) A scholarship awarded under this chapter may be used only for the payment of tuition or fees that are:

(1) approved by the state educational institution that awards the scholarship; and

(2) not otherwise payable under any other scholarship or form of financial assistance specifically designated for tuition or fees.

(c) Subject to section 8(c) of this chapter, each scholarship awarded under this chapter is renewable under section 9 of this chapter for a total number of terms that does not exceed eight (8) full-time semesters (or the equivalent) or twelve (12) full-time quarters (or the equivalent).

Sec. 8. (a) The commission for higher education shall provide the commission with the most recent information concerning the number of insurance students at each state educational institution.

(b) The commission shall allocate the available money from the fund to each state educational institution that has:

(1) an insurance program; or

(2) a business program with an emphasis on insurance;

in proportion to the number of insurance students enrolled at each state educational institution based upon the information received by the commission under subsection (a).

(c) Each state educational institution shall determine which of the state educational institution's insurance students who apply qualify under section 9 of this chapter. In addition, the state educational institution shall consider the need of the applicant when awarding scholarships under this chapter.

(d) The state educational institution may not grant a scholarship renewal to an insurance student for an academic year that ends later than six (6) years after the date on which the insurance student received the insurance student's initial scholarship under this chapter.

(e) Any funds that:

(1) are allocated to a state educational institution under section 8(b) of this chapter; and

(2) are not used for scholarships under this chapter;

shall be returned to the commission for reallocation by the commission to any other eligible state educational institution in need of additional funds.

Sec. 9. To qualify for a scholarship or a scholarship renewal from the fund, an insurance student must:

(1) be admitted to an approved state educational institution as a full-time or part-time insurance student; and

(2) meet the qualifications established by the commission under section 11 of this chapter.

Sec. 10. (a) The commission shall maintain complete and accurate records in administering the fund, including records concerning the scholarships awarded under this chapter.

(b) Each state educational institution shall provide the commission with information concerning the following:

(1) The awarding of scholarships under this chapter.

(2) The academic progress made by each recipient of a scholarship under this chapter.

(3) Other pertinent information requested by the commission.

Sec. 11. (a) The commission shall adopt rules under subsection (b) to establish qualifications for recipients of scholarships and scholarship renewals under this chapter.

(b) The commission shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 5. IC 22-3-3-13, AS AMENDED BY P.L.134-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than November 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. Not later than January 31 of the following year, each entity identified in subdivisions (1) and (2) shall send to the board a statement of total paid losses and premiums (as defined in subsection (d)(4)) paid by employers during the previous calendar year. The board may conduct an assessment under this subsection not more than one (1) time annually. The total amount of the assessment may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. The board shall assess a penalty in the amount of ten percent (10%) of the amount owed if payment is not made under this section within thirty (30) days from the date set by the board. If the amount to the credit of the second injury fund on or before November 1 of any year exceeds one hundred thirty-five percent (135%) of the previous year's disbursements, the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before November 1 of any year the amount to the credit of the fund is less than one hundred thirty-five percent (135%) of the previous year's disbursements, the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.

(d) The board shall assess all employers for the liabilities, including administrative expenses, of the second injury fund. The assessment also must provide for the repayment of all loans made to the second injury fund for the purpose of paying valid claims. The following applies to assessments under this subsection:

(1) The portion of the total amount that must be collected from self-insured employers equals:

(A) the total amount of the assessment as determined by the board; multiplied by

(B) the quotient of:

(i) the total paid losses on behalf of all self-insured employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(2) The portion of the total amount that must be collected from insured employers equals:

(A) the total amount of the assessment as determined by the board; multiplied by

(B) the quotient of:

(i) the total paid losses on behalf of all insured employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(3) The total amount of **insured employer** assessments ~~allocated to insured employers~~ under subdivision (2) must be be collected by the insured employers' worker's compensation insurers. The amount of ~~the assessment for~~ **employer assessments** each ~~insured employer~~ **insurer shall collect** equals:

(A) the total amount of assessments allocated to insured employers under subdivision ~~(3),~~ **(2);** multiplied by

(B) the quotient of:

(i) the worker's compensation premiums paid by ~~the insured employer~~ **employers to the carrier** during the preceding calendar year; divided by

(ii) the worker's compensation premiums paid by **employers to** all ~~insured employers~~ **carriers** during the preceding calendar year.

(4) For purposes of the computation made under subdivision (3), "premium" means the ~~entire written premium resulting from standard rating procedures and before the application of any of the following:~~

~~(A) Rate deviations.~~

~~(B) Premium discounts.~~

~~(C) Policyholder dividends.~~

~~(D) Premium adjustments under a retrospective rating plan.~~

~~(E) Premium credits provided under large deductible programs.~~

~~(F) Any other premium debits or credits.~~ **direct written premium.**

(5) The amount of the assessment for each self-insured employer equals:

(A) the total amount of assessments allocated to self-insured employers under subdivision (1); multiplied by

(B) the quotient of:

(i) the paid losses attributable to the self-insured employer during the preceding calendar year; divided by

(ii) paid losses attributable to all self-insured employers during the preceding calendar year.

An employer that has ceased to be a self-insurer continues to be liable for prorated assessments based on paid losses made by the employer in the preceding calendar year during the period that the employer was self-insured.

(e) The board may employ a qualified employee or enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than December 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(f) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of insurance producer commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(g) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(h) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (i).

(i) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(j) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(k) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 6. IC 27-1-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) Except as provided in subsection ~~(g)~~ **(h),** the commissioner shall collect the following filing fees:

Document	Fee
Articles of incorporation	$ 350
Amendment of articles of incorporation	$ 10
Filing of annual statement and consolidated statement	$ 100
Annual renewal of company license fee	$ 50
Withdrawal of certificate of authority	$ 25

Certified statement of condition	$ 5
Any other document required to be filed by this article	$ 25

The commissioner shall deposit fees collected under this subsection into the department of insurance fund established by section 28 of this chapter.

(b) The commissioner shall collect a fee of ten dollars ($10) each time process is served on the commissioner under this title.

(c) The commissioner shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

Per page for copying	As determined by the commissioner but not to exceed actual cost
For the certificate	$10

(d) Each domestic and foreign insurer **and each health maintenance organization** shall remit annually to the commissioner for deposit into the department of insurance fund established by ~~IC 27-1-3-28 three hundred fifty~~ **section 28 of this chapter one thousand** dollars ~~($350)~~ **($1,000)** as an internal audit fee. All assessment insurers, farm mutuals, **and** fraternal benefit societies ~~and health maintenance organizations~~ shall remit to the commissioner for deposit into the department of insurance fund ~~one~~ **two** hundred **fifty** dollars ~~($100)~~ **($250)** annually as an internal audit fee.

(e) Beginning July 1, 1994, each insurer shall remit to the commissioner for deposit into the department of insurance fund established by ~~IC 27-1-3-28~~ **section 28 of this chapter** a fee of thirty-five dollars ($35) for each policy, rider, ~~and~~ **rule, rate, or** endorsement filed with the state, **including subsequent filings. Except as provided in subsection (f), each policy, rider, rule, rate, or endorsement that is filed as part of a particular product filing or in association with a particular product filing is an individual filing subject to the fee under this subsection.** However, ~~each policy, rider, and endorsement filed as part of a particular product filing and associated with that product filing shall be considered to be a single filing and subject only to one (1) thirty-five dollar ($35) fee.~~ **the total amount of fees paid under this subsection by each insurer for a particular product filing may not exceed one thousand dollars ($1,000).**

(f) Beginning July 1, 2009, a policy, rider, rule, rate, or endorsement that is filed as part of a particular product filing or in association with a particular product filing for a commercial product described in:

(1) Class 2(b), Class 2(c), Class 2(d), Class 2(e), Class 2(f), Class 2(g), Class 2(h), Class 2(i), Class 2(j), Class 2(k), Class 2(l), or Class 2(m) of IC 27-1-5-1; or

(2) Class 3 of IC 27-1-5-1;

is considered to be part of a single filing for which the insurer is subject only to one (1) thirty-five dollar ($35) fee under subsection (e).

~~(f)~~ **(g)** The commissioner shall pay into the state general fund by the end of each calendar month the amounts collected during that month under subsections ~~(a),~~ (b) and (c).

~~(g)~~ **(h)** The commissioner may not collect fees for quarterly statements filed under IC 27-1-20-33.

~~(h)~~ **(i)** The commissioner may adopt rules under IC 4-22-2 to provide for the accrual and quarterly billing of fees under this section.

SECTION 7. IC 27-1-3-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. (a) The department of insurance fund is established for the following purposes:

(1) To provide supplemental funding for the operations of the department of insurance.

(2) To pay the costs of hiring and employing staff.

(3) To provide staff salary differentials as necessary to equalize the average salaries and staffing levels of the department of insurance with the average salaries and staffing levels reported in the most recent Insurance Department Resources Report published by the National Association of Insurance Commissioners.

(4) To enable the department of insurance to maintain accreditation by the National Association of Insurance Commissioners.

(5) To carry out any other purpose determined necessary by the department of insurance to carry out the department's duties under this title.

(b) The fund shall be administered by the commissioner. The following shall be deposited in the department of insurance fund:

(1) Audit fees remitted by insurers to the commissioner under ~~IC 27-1-3-15(d).~~ **section 15(d) of this chapter.**

(2) Filing fees remitted by insurers to the commissioner under ~~IC 27-1-3-15(e).~~ **section 15(a) or 15(e) of this chapter.**

(3) Any other amounts remitted to the commissioner or the department that are required by rule or statute to be deposited into the department of insurance fund.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a particular fiscal year does not revert to the state general fund.

(f) There is annually appropriated to the department of insurance, for the purposes set forth in subsection (a), the entire amount of money deposited in the fund in each year.

SECTION 8. IC 27-1-12.7-10, AS AMENDED BY P.L.193-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. Notwithstanding any other provision of law:

(1) the commissioner has the sole authority to regulate the issuance and sale of funding agreements;

(2) a funding agreement is not considered a covered policy under IC 27-8-8-1(a) or IC 27-8-8-2.3(d); ~~and~~

(3) a claim for payments under a funding agreement must be treated as a loss claim described in Class 2 of IC 27-9-3-40; **and**

(4) assets supporting a funding agreement in a segregated asset account under section 8 of this chapter are subject to IC 27-9-3-40.5 and Class 1(c) of IC 27-1-5-1.

SECTION 9. IC 27-1-13-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16. (a) This section applies to a policy of insurance that:**

(1) covers first party loss to property located in Indiana; and

(2) insures against loss or damage to:

(A) real property consisting of not more than four (4) residential units, one (1) of which is the principal place of residence of the named insured; or

(B) personal property in which the named insured has an insurable interest and that is used within a residential dwelling for personal, family, or household purposes.

(b) An insurer that reduces, restricts, or removes, through a rider or an endorsement, coverage provided by a policy of insurance must provide to the named insured written notice, through the United States mail or by electronic means, of the changes to the policy. The written notice required by this subdivision must:

(1) be part of a document that is separate from the rider or endorsement;

(2) be printed in at least 12 point type, 1 point leaded;

(3) consist of text that achieves a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner as provided by IC 27-1-26-6;

(4) identify the forms, provisions, or endorsements that are changed;

(5) indicate the name and contact information of:

(A) the servicing insurance producer for the policy, if any; and

(B) the insurer;

whom the named insured may contact for assistance with any questions concerning the policy changes;

(6) indicate whether a premium adjustment will result from the policy changes; and

(7) set forth any options available to the named insured to repurchase the coverage that has been reduced, restricted, or removed.

(c) If the notice required under subsection (b) is sent through the United States mail, the outside of the envelope used to mail the notice must contain the following statement in at least 14 point type: "Coverage has been reduced, restricted, or removed from your policy.".

(d) The insurer bears the burden to prove that notice was sent to the named insured in accordance with this section. If the notice is sent through the United States mail, proof of mailing as described in IC 27-7-6-7 is sufficient proof of the notice.

(e) The commissioner may adopt rules under IC 4-22-2 to implement this section.

SECTION 10. IC 27-1-13-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17. (a) This section applies to a policy of insurance that:**

(1) covers first party loss to property located in Indiana; and

(2) insures against loss or damage to:

(A) real property consisting of not more than four (4) residential units, one (1) of which is the principal place of residence of the named insured; or

(B) personal property in which the named insured has an insurable interest and that is used within a residential dwelling for personal, family, or household purposes.

(b) A policy of insurance described in subsection (a) may not be issued, renewed, or delivered to any person in Indiana if the policy limits a policyholder's right to bring an action against an insurer to a period of less than two (2) years from the date of loss.

SECTION 11. IC 27-1-15.6-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7.3. (a) The commissioner may design or have designed an insurance producer certificate suitable for framing and display.**

(b) Upon request of an insurance producer, the commissioner may issue a certificate described in subsection (a).

(c) The commissioner may impose and collect a reasonable fee for a certificate issued under subsection (b). The commissioner shall deposit fees collected under this subsection into the insurance education scholarship fund established by IC 20-12-22.3-5.

(d) The commissioner shall establish guidelines to implement this section.

SECTION 12. IC 27-1-15.6-24.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 24.1. A licensed insurance producer may charge a reasonable fee for personal lines property and casualty insurance or services related to personal lines property and casualty insurance subject to the following requirements:**

(1) The amount of a fee and the basis for calculating a fee may not vary among personal lines insureds.

(2) The amount of a fee is subject to the approval of the commissioner.

SECTION 13. IC 27-1-15.6-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. (a) The department shall adopt rules under IC 4-22-2 to set fees for licensure under this chapter, IC 27-1-15.7, and IC 27-1-15.8.

(b) Insurance producer and limited lines producer license renewal fees are due every ~~four (4)~~ **two (2)** years. The fee charged by the department every ~~four (4)~~ **two (2)** years for a:

(1) resident license is forty dollars ($40); and

(2) nonresident license is ninety dollars ($90).

(c) Consultant renewal fees are due every twenty-four (24) months.

(d) Surplus lines producer renewal fees are due ~~annually.~~ **every two (2) years. The fee charged by the department every two (2) years for a:**

(1) resident license is eighty dollars ($80); and

(2) nonresident license is one hundred twenty dollars ($120).

(e) The commissioner may issue a duplicate license for any license issued under this chapter. The fee charged by the commissioner for the issuance of a duplicate:

(1) insurance producer license;

(2) surplus lines producer license;

(3) limited lines producer license; or

(4) consultant license;

may not exceed ten dollars ($10).

(f) A fee charged and collected under this section shall be deposited into the department of insurance fund established by IC 27-1-3-28.

SECTION 14. IC 27-1-15.7-2, AS AMENDED BY P.L.73-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as provided in subsection (b), to renew a license issued under IC 27-1-15.6:

(1) a resident insurance producer must complete at least ~~forty (40)~~ **twenty (20)** hours of credit in continuing education courses; and

(2) a resident limited lines producer must complete at least ~~ten (10)~~ **five (5)** hours of credit in continuing education courses.

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses that are related to the business of insurance.

(b) To renew a license issued under IC 27-1-15.6, a limited lines producer with a title qualification under IC 27-1-15.6-7(a)(8) must complete at least ~~fourteen (14)~~ **seven (7)** hours of credit in continuing education courses related to the business of title insurance with at least one (1) hour of instruction in a structured setting or comparable self-study in each of the following:

(1) Ethical practices in the marketing and selling of title insurance.

(2) Title insurance underwriting.

(3) Escrow issues.

(4) Principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 with a title qualification under IC 27-1-15.6-7(a)(8) may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses related to the business of title insurance or any aspect of real property law.

(c) The following insurance producers are not required to complete continuing education courses to renew a license under this chapter:

(1) A limited lines producer who is licensed without examination under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).

(2) A limited line credit insurance producer.

(3) An insurance producer who is at least seventy (70) years of age and has been a licensed insurance producer continuously for at least twenty (20) years immediately preceding the license renewal date.

(d) To satisfy the requirements of subsection (a) or (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

(1) after the effective date of the licensee's last renewal of a license under this chapter; or

(2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

(e) If an insurance producer receives qualification for a license in more than one (1) line of authority under IC 27-1-15.6, the insurance producer may not be required to complete a total of more than ~~forty (40)~~ **twenty (20)** hours of credit in continuing education courses to renew the license.

(f) Except as provided in subsection (g), a licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 4 of this chapter.

(g) A licensee who teaches a course approved by the commissioner under section 4 of this chapter shall receive continuing education credit for teaching the course.

(h) When a licensee renews a license issued under this chapter, the licensee must submit:

(1) a continuing education statement that:

(A) is in a format authorized by the commissioner;

(B) is signed by the licensee under oath; and

(C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements of this section; and

(2) any other information required by the commissioner.

(i) A continuing education statement submitted under subsection (h) may be reviewed and audited by the department.

(j) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

(k) A licensee who completes a continuing education course that:

(1) is approved by the commissioner under section 4 of this chapter;

(2) is held in a classroom setting; and

(3) concerns ethics;

shall receive continuing education credit for the number of hours for which the course is approved plus additional hours, not to exceed two (2) hours in a renewal period, equal to the number of hours for which the course is approved.

SECTION 15. IC 27-1-15.8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. ~~(a) During the period that a resident surplus lines producer's license is in effect, the licensee shall keep in force a bond in the penal sum of not less than twenty thousand dollars ($20,000) with an authorized corporate surety approved by the commissioner. The aggregate liability of the surety for any and all claims on a bond does not exceed the penal sum of the bond. A bond may not be terminated unless written notice of termination is provided by the surety to the licensee and the commissioner not less than thirty (30) days before termination. Upon termination of a resident license for which a bond was in effect, the commissioner shall notify the surety of the termination within ten (10) business days. All surety protection under this section inures to the benefit of the state of Indiana to assure the payment of all premium taxes.~~

~~(b) A resident surplus lines producer shall, at the time of an initial filing under subsection (c), file with the commissioner proof of the bond in the amount required under subsection (a). In each subsequent calendar year, the resident surplus lines producer shall file proof that the bond remains in effect. A subsequent filing under this subsection shall be made in conjunction with the annual filing required under subsection (c).~~

~~(c)~~ **(a)** In addition to all other charges, fees, and taxes that may be imposed by law, a surplus lines producer licensed under this chapter shall, on or before February 1 and August 1 of each year, collect from the insured and remit to the department for the use and benefit of the state of Indiana an amount equal to two and one-half percent (2 ½%) of all gross premiums upon all policies and contracts procured by the surplus lines producer under the provisions of this section during the preceding six (6) month period ending December 31 and June 30, respectively. The declarations page of a policy referred to in this subsection must itemize the amounts of all charges for taxes, fees, and premiums.

~~(d)~~ **(b)** A licensed surplus lines producer shall execute and file with the department of insurance on or before the twentieth day of each month an affidavit that specifies all transactions, policies, and contracts procured during the preceding calendar month, including:

(1) the description and location of the insured property or risk and the name of the insured;

(2) the gross premiums charged in the policy or contract;

(3) the name and home office address of the insurer whose policy or contract is issued, and the kind of insurance effected; and

(4) a statement that:

(A) the licensee, after diligent effort, was unable to procure from any insurer authorized to transact the particular class of insurance business in Indiana the full amount of insurance required to protect the insured; and

(B) the insurance placed under this chapter is not placed for the purpose of procuring it at a premium rate lower than would be accepted by an insurer authorized and licensed to transact insurance business in Indiana.

~~(e)~~ **(c)** A licensed surplus lines producer shall file with the department, not later than March 31 of each year, the financial statement, dated as of December 31 of the preceding year, of each unauthorized insurer from whom the surplus lines producer has procured a policy or contract. The insurance commissioner may, in the commissioner's discretion, after reviewing the financial statement of the unauthorized insurer, order the surplus lines producer to cancel an unauthorized insurer's policies and contracts if the commissioner is of the opinion that the financial statement or condition of the unauthorized insurer does not warrant continuance of the risk.

~~(f)~~ **(d)** A licensed surplus lines producer shall keep a separate account of all business transacted under this section. The account may be inspected at any time by the commissioner or the commissioner's deputy or examiner.

~~(g)~~ **(e)** An insurer that issues a policy or contract to insure a risk under this section is considered to have appointed the commissioner as the insurer's attorney upon whom process may be served in Indiana in any suit, action, or proceeding based upon or arising out of the policy or contract.

~~(h)~~ **(f)** The commissioner may revoke or refuse to renew a surplus lines producer's license for failure to comply with this section.

~~(i)~~ **(g)** A surplus lines producer licensed under this chapter may accept and place policies or contracts authorized under this section for an insurance producer duly licensed in Indiana, and may compensate the insurance producer even though the insurance producer is not licensed under this chapter.

~~(j)~~ **(h)** If a surplus lines producer does not remit an amount due to the department within the time prescribed in subsection

~~(c),~~ **(a),** the commissioner shall assess the surplus lines producer a penalty of ten percent (10%) of the amount due. The commissioner shall assess a further penalty of an additional one percent (1%) of the amount due for each month or portion of a month that any amount due remains unpaid after the first month. Penalties assessed under this subsection are payable by the surplus lines producer and are not collectible from an insured.

SECTION 16. IC 27-1-22-4, AS AMENDED BY P.L.193-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Every insurer shall file with the commissioner every manual of classifications, rules, and rates, every rating schedule, every rating plan, and every modification of any of the foregoing which it proposes to use.

(b) The following types of insurance are exempt from the requirements of subsections (a) and (j):

(1) Inland marine risks, which by general custom of the business are not written according to manual rates or rating plans.

(2) Insurance ~~other than workers compensation insurance,~~ that is:

(A) written by an insurer that:

(i) complies with subsection (m) and

~~(ii)~~ maintains at least a B rating by A.M. Best or an equivalent rating by another independent insurance rating organization; **or**

(ii) is approved for an exemption by the commissioner; and

(B) issued to commercial policyholders.

(c) Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the filer supports such filing.

(d) The information furnished in support of a filing may include:

(1) the experience and judgment of the insurer or rating organization making the filing;

(2) its interpretation of any statistical data it relies upon;

(3) the experience of other insurers or rating organizations; or

(4) any other relevant factors.

The commissioner shall have the right to request any additional relevant information. A filing and any supporting information shall be open to public inspection as soon as stamped "filed" within a reasonable time after receipt by the commissioner, and copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

(e) Filings shall become effective upon the date of filing by delivery or upon date of mailing by registered mail to the commissioner, or on a later date specified in the filing.

(f) Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(g) Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf, provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the commissioner to accept such filings on its behalf.

(h) Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the commissioner to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

(1) that any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the commissioner and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and

(2) that any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the commissioner:

(A) requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty (30) days after receipt of such request, either:

(i) to make such filing as a rating organization filing;

(ii) to make such filing on an agency basis solely on behalf of the requesting member; or

(iii) to decline the request of such member; and

(B) excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

(i) Under such rules as the commissioner shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kinds of insurance, or subdivision, or classes of risk, or parts or combinations of any of the foregoing, the rates for which can not practicably be filed before they are used. Such orders and rules shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as the commissioner may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate, or unfairly discriminatory.

(j) Upon the written application of the insured, stating the insured's reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(k) An insurer shall not make or issue a policy or contract except in accordance with filings which are in effect for that insurer or in accordance with the provisions of this chapter. Subject to the provisions of section 6 of this chapter, any rates, rating plans, rules, classifications, or systems in effect on May 31, 1967, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

(l) The commissioner shall have the right to make an investigation and to examine the pertinent files and records of any insurer, insurance producer, or insured in order to ascertain compliance with any filing for rate or coverage which is in effect. The commissioner shall have the right to set up procedures necessary to eliminate noncompliance, whether on an individual policy, or because of a system of applying charges or discounts which results in failure to comply with such filing.

(m) This subsection applies to an insurer that issues a commercial property or commercial casualty insurance policy to a commercial policyholder. Not more than thirty (30) days after the insurer begins using a commercial property or commercial casualty insurance:

(1) rate;

(2) rating plan;

(3) manual of classifications; ~~or~~

(4) form; or

~~(4)~~ **(5)** modification of an item specified in subdivision (1), (2), ~~or~~ (3), **or (4);**

the insurer shall file with the department, for informational purposes only, the item specified in subdivision (1), (2), (3), ~~or~~ (4), **or (5).** Use of an item specified in subdivision (1), (2), (3), ~~or~~ (4), **or (5)** is not conditioned on review or approval by the department. This subsection does not require filing of an individual policy rate if the original manuals, rates, and rules for the insurance plan or program to which the individual policy conforms has been filed with the department.

(n) ~~Subsection (m) does not apply to~~ **An insurer that issues a commercial property or commercial casualty insurance** policy ~~forms.~~ **form, endorsement, or rider that is prepared to provide or exclude coverage for an unusual or extraordinary risk of a particular commercial policyholder must maintain the policy form, endorsement, or rider in the insurer's Indiana office and provide the policy form, endorsement, or rider to the commissioner at the commissioner's request.**

(o) If coverage under a commercial property or commercial casualty insurance policy is changed, upon renewal of the policy, the insurer shall provide to the policyholder and insurance producer through which the policyholder obtains the coverage a written notice that the policy has been changed.

SECTION 17. IC 27-1-25-12.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.2. (a) An administrator that:

(1) performs the duties of an administrator in Indiana; and

(2) does not hold a license issued under section 11.1 of this chapter;

shall obtain a nonresident administrator license under this section by filing a uniform application with the commissioner.

(b) Unless the commissioner verifies the nonresident administrator's home state license status through an electronic data base maintained by the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform application filed under subsection (a) must be accompanied by a letter of certification from the nonresident administrator's home state, verifying that the nonresident administrator holds a resident administrator license in the home state.

(c) A nonresident administrator is not eligible for a nonresident administrator license under this section unless the nonresident administrator is licensed as a resident administrator in a home state that has a law or regulation that is substantially similar to this chapter.

(d) Except as provided in subsections (b) and (h), the commissioner shall issue a nonresident administrator license to a nonresident administrator that makes a filing under subsections (a) and (b) upon receipt of the filing.

(e) Unless a nonresident administrator is notified by the commissioner that the commissioner is able to verify the nonresident administrator's home state licensure through an electronic data base described in subsection (b), the nonresident administrator shall:

(1) on September 15 of each year, file a statement with the commissioner affirming that the nonresident administrator maintains a current license in the nonresident administrator's home state; and

(2) pay a filing fee as required by the commissioner.

The commissioner shall collect a filing fee required under subdivision (2) and deposit the fee into the department of insurance fund established by IC 27-1-3-28.

(f) A nonresident administrator that applies for licensure under this section shall:

(1) produce the accounts of the nonresident administrator;

(2) produce the records and files of the nonresident administrator for examination; and

(3) make the officers of the nonresident administrator available to provide information with respect to the affairs of the nonresident administrator;

when reasonably required by the commissioner.

(g) A nonresident administrator is not required to hold a nonresident administrator license in Indiana if the nonresident administrator's function in Indiana is limited to the administration of life, health, or annuity coverage for a total of not more than one hundred (100) Indiana residents.

(h) The commissioner may refuse to issue or may delay the issuance of a nonresident administrator license if the commissioner determines that:

(1) due to events occurring; or

(2) based on information obtained;

after the nonresident administrator's home state's licensure of the nonresident administrator, the nonresident administrator is unable to comply with this chapter or grounds exist for the home state's revocation or suspension of the nonresident administrator's home state license.

(i) If the commissioner makes a determination described in subsection (h), the commissioner:

(1) shall provide written notice of the determination to the insurance regulator of the nonresident administrator's home state; and

(2) may delay the issuance of a nonresident administrator license to the nonresident administrator until the commissioner determines that the nonresident administrator is able to comply with this chapter and that grounds do not exist for the home state's revocation or suspension of the nonresident administrator's home state license.

SECTION 18. IC 27-1-25-12.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.3. (a) An administrator that is licensed under section 11.1 of this chapter shall, not later than July 1 of each year unless the commissioner grants an extension of time for good cause, file a report for the previous calendar year that complies with the following:

(1) The report must contain financial information reflecting a positive net worth prepared in accordance with section 11.1(b)(4) of this chapter.

(2) The report must be in the form and contain matters prescribed by the commissioner.

(3) The report must be verified by at least two (2) officers of the administrator.

(4) The report must include the complete names and addresses of insurers with which the administrator had a written agreement during the preceding fiscal year.

(5) The report must be accompanied by a filing fee determined by the commissioner.

The commissioner shall collect a filing fee paid under subdivision (5) and deposit the fee into the department of insurance fund established by IC 27-1-3-28.

(b) The commissioner shall review a report filed under subsection (a) not later than September 1 of the year in which the report is filed. Upon completion of the review, the commissioner shall:

(1) issue a certification to the administrator:

(A) indicating that:

(i) the financial statement reflects a positive net worth; and

(ii) the administrator is currently licensed and in good standing; or

(B) noting deficiencies found in the report; or

(2) update an electronic data base that is maintained by the NAIC or by an affiliate or a subsidiary of the NAIC:

(A) indicating that the administrator is solvent and in compliance with this chapter; or

(B) noting deficiencies found in the report.

SECTION 19. IC 27-1-34-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this chapter, "arrangement" refers to a multiple employer welfare arrangement.

(b) As used in this chapter, "multiple employer welfare arrangement" means an entity other than a duly admitted insurer that establishes an employee benefit plan for the purpose of offering or providing accident and sickness or death benefits to the employees of at least two (2) employers, including self-employed individuals and their dependents. **For purposes of this subsection, two (2) employers, one (1) of which holds an ownership interest of at least fifty-one percent (51%) in the other, are considered to be one (1) employer.**

SECTION 20. IC 27-1-40 IS ADDED TO THE INDIANA

CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 40. Entry of Unauthorized Alien Companies

Sec. 1. As used in this chapter, "trusteed surplus" means the aggregate value of a United States branch's:

(1) surplus and reserve funds required under IC 27-1-6; and

(2) trust assets described in section 5 of this chapter;

plus investment income accrued on the items described in subdivisions (1) and (2) if the investment income is collected by the state for the trustees, less the aggregate net amount of all of the United States branch's reserves and other liabilities in the United States, as determined under section 6 of this chapter.

Sec. 2. As used in this chapter, "United States branch" means:

(1) an entity that is considered, for purposes of this chapter, to be a domestic company through which insurance business is transacted in the United States by an alien company; and

(2) the alien company's assets and liabilities that are attributable to the insurance business transacted in the United States.

Sec. 3. Indiana may serve as a state of entry to enable an alien company to transact insurance business in the United States through a United States branch if the United States branch:

(1) qualifies under this title for a certificate of authority as if the United States branch were a domestic company organized under this title; and

(2) establishes a trust account that meets the following conditions:

(A) The trust account is established under a trust agreement approved by the commissioner with a United States bank.

(B) The amount in the trust account is at least equal to:

(i) the minimum capital and surplus requirements; or

(ii) the authorized control level risk based capital requirements;

whichever is greater, that apply to a domestic company that possesses a certificate of authority to transact the same kind of insurance business in Indiana as the United States branch will transact.

Sec. 4. (a) A trust account established under section 3(2) of this chapter must contain, at all times, an amount equal to the United States branch's reserves and other liabilities, plus the:

(1) minimum capital and surplus requirement; or

(2) authorized control level risk based capital requirement;

whichever is greater, that applies to a domestic company granted a certificate of authority under this title to transact the same kind of insurance business as the United States branch transacts.

(b) One (1) or more trustees must be appointed to administer the trust.

(c) A trust agreement for a trust account established under section 3(2) of this chapter, and amendments to the trust agreement:

(1) must be authenticated in a manner prescribed by the commissioner; and

(2) are effective only when approved by the commissioner after the commissioner finds all of the following:

(A) The trust agreement and amendments are sufficient in form and in conformity with law.

(B) All trustees appointed under subsection (b) are eligible to serve as trustees.

(C) The trust agreement is adequate to protect the interests of the beneficiaries of the trust.

(d) The commissioner may withdraw an approval granted under subsection (c)(2) if, after notice and hearing, the commissioner determines that one (1) or more of the conditions required under subsection (c)(2) for approval no longer exist.

(e) The commissioner may approve modifications of, or variations in, a trust agreement under subsection (c) if the modifications or variations are not prejudicial to the interests of Indiana residents, United States policyholders, and creditors of the United States branch.

(f) A trust agreement for a trust account established under section 3(2) of this chapter must contain provisions that:

(1) vest legal title to trust assets in the trustees and lawfully appointed successors of the trustees;

(2) require that all assets deposited in the trust account be continuously kept in the United States;

(3) provide for appointment of a new trustee in case of a vacancy, subject to the approval of the commissioner;

(4) require that the trustees continuously maintain a record sufficient to identify the assets of the trust account;

(5) require that the trust assets consist of:

(A) cash;

(B) investments of the same kind as the investments in which funds of a domestic company may be invested; and

(C) interest accrued on the cash and investments specified in clauses (A) and (B), if collectible by the trustees;

(6) establish that the trust:

(A) is for the exclusive benefit, security, and protection of:

(i) United States policyholders of the United States branch; and

(ii) United States creditors of the United States branch after all obligations to policyholders are paid; and

(B) shall be maintained as long as any liability of the United States branch arising out of the United States branch's insurance transactions in the United States is outstanding; and

(7) establish that trust assets, other than income as specified in subsection (g), may not be withdrawn or permitted by the trustees to be withdrawn without the approval of the commissioner, except for any of the following purposes:

(A) To make deposits required by the law of any state for the security or benefit of all policyholders of the United States branch in the United States.

(B) To substitute other assets permitted by law and at least equal in value and quality to the assets withdrawn, upon the specific written direction of the United States manager of the United States branch when the United States manager is empowered and acting under general or specific written authority previously granted or delegated by the alien company's board of directors.

(C) To transfer the assets to an official liquidator or rehabilitator under a court order.

(g) A trust agreement for a trust account established under section 3(2) of this chapter may provide that income, earnings, dividends, or interest accumulations of the trust assets may be paid over to the United States manager of the United States branch upon request of the United States manager if the total amount of trust assets following the payment to the United States manager is not less than the amount required under subsection (a).

(h) A trust agreement for a trust account established

under section 3(2) of this chapter may provide that written approval of the insurance supervising official of another state in which:

(1) trust assets are deposited; and

(2) the United States branch is authorized to transact insurance business;

is sufficient, and approval of the commissioner is not required, for withdrawal of the trust assets in the other state if the amount of total trust assets after the withdrawal will not be less than the amount required under subsection (a). However, the United States branch shall provide written notice to the commissioner of the nature and extent of the withdrawal.

(i) The commissioner may at any time:

(1) make examinations of the trust assets of a United States branch that holds a certificate of authority under this chapter, at the expense of the United States branch; and

(2) require the trustees to file a statement, on a form prescribed by the commissioner, certifying the assets of the trust account and the amounts of the assets.

(j) Refusal or neglect of a trustee to comply with this section is grounds for:

(1) the revocation of the United States branch's certificate of authority; or

(2) the liquidation of the United States branch.

Sec. 5. (a) The commissioner shall require a United States branch to do the following before granting the United States branch a certificate of authority to transact insurance business as described in section 3(1) of this chapter:

(1) Comply with this chapter and any other requirement of this title.

(2) Submit the following:

(A) A copy of the current charter and bylaws of the alien company that intends to transact business through the United States branch and any other documents determined by the commissioner to be necessary to provide evidence of the kinds of insurance business that the alien company is authorized to transact. Documents submitted under this clause must be attested to as accurate by the insurance supervisory official in the alien company's domiciliary jurisdiction.

(B) A full statement, subscribed and affirmed as true under penalty of perjury by two (2) officers or equivalent responsible representatives of the alien company in a manner prescribed by the commissioner, of the alien company's financial condition as of the close of the alien company's latest fiscal year, showing the alien company's:

(i) assets;

(ii) liabilities;

(iii) income disbursements;

(iv) business transacted; and

(v) other facts required to be shown in the alien company's annual statement reported to the insurance supervisory official in the alien company's domiciliary jurisdiction.

(C) An English translation, if necessary, of any document submitted under this subdivision.

(3) Submit to an examination of the affairs of the alien company that intends to transact business through the United States branch at the alien company's principal office in the United States. However, the commissioner may accept a report of the insurance supervisory official in the alien company's domiciliary jurisdiction in lieu of the examination required under this subdivision.

(b) The commissioner may at any time hire, at a United States branch's expense, any independent experts that the commissioner considers necessary to implement this chapter with respect to the United States branch.

Sec. 6. (a) A United States branch shall file with the commissioner, not later than March 1, May 15, August 15, and November 15 of each year, all of the following:

(1) Statements of the insurance business transacted in the United States, the assets held by or for the United States branch in the United States for the protection of policyholders and creditors in the United States, and the liabilities incurred against the assets. All of the following apply to the statements filed under this subdivision:

(A) The statements must contain information concerning only the United States branch's assets and insurance business in the United States.

(B) The statements must be in the same form as statements required of a domestic company that possesses a certificate of authority to transact the same kinds of insurance business as the United States branch transacts.

(C) The statements must be filed as follows:

(i) Quarterly statements filed not later than May 15, August 15, and November 15 of each year for the first three (3) quarters of the calendar year.

(ii) An annual statement, filed not later than March 1 of each year.

(2) A trusteed surplus statement, in a form prescribed by the commissioner, at the end of the period covered by each statement described in subdivision (1)(C). In determining the net amount of the United States branch's liabilities in the United States to be reported in the statement of trusteed surplus, the United States branch shall make adjustments to total liabilities reported on the accompanying annual or quarterly statement as follows:

(A) Add back liabilities used to offset admitted assets reported in the accompanying quarterly or annual statement.

(B) Deduct:

(i) unearned premiums on insurance producer balances or uncollected premiums that are not more than ninety (90) days past due;

(ii) losses reinsured by reinsurers authorized to do business in Indiana, less unpaid reinsurance premiums to be paid to the authorized reinsurers;

(iii) reinsurance recoverables on paid losses from reinsurers not authorized to do business in Indiana that are included as an asset in the annual statement, but only to the extent that a liability for the unauthorized recoverables is included in the liabilities report in the trusteed surplus statement;

(iv) special state deposits held for the exclusive benefit of policyholders of a particular state that do not exceed net liabilities reports for the particular state;

(v) secured accrued retrospective premiums;

(vi) if the alien company transacting business through the United States branch is a life insurer, the amount of the alien company's policy loans to policyholders in the United States, not exceeding the amount of legal reserve required on each policy, and the net amount of uncollected and deferred premiums; and

(vii) any other nontrust asset that the commissioner determines secures liabilities in a manner substantially similar to the manner in which liabilities are secured by the unearned premiums, losses reinsured, reinsurance recoverables, special state deposits, secured accrued retrospective premiums, and policy loans

referred to in items (i) through (vi).

(3) Any additional information that relates to the business or assets of the alien company and is required by the commissioner.

(b) The annual statement and trusteed surplus statement described in subsection (a) must be signed and verified by the United States manager, the attorney in fact, or an empowered assistant United States manager, of the United States branch. Items of securities and other property held under a trust agreement must be certified in the trusteed surplus statement by the United States trustees.

(c) Each report concerning an examination of a United States branch conducted under section 4(i) of this chapter must include a trusteed surplus statement as of the date of examination and a general statement of the financial condition of the United States branch.

Sec. 7. (a) Before issuing a new or renewal certificate of authority to a United States branch, the commissioner may require satisfactory proof:

(1) in the charter of the alien company transacting business through the United States branch;

(2) by an agreement evidenced by a certified resolution of the alien company's board of directors; or

(3) otherwise as required by the commissioner;

that the United States branch will not engage in any insurance business not authorized by this chapter and by the alien company's charter.

(b) The commissioner shall issue a renewal certificate of authority to a United States branch if the commissioner is satisfied that the United States branch is not delinquent in any requirement of this title and that the United States branch's continued insurance business in Indiana is not contrary to the best interest of the citizens of Indiana.

(c) A United States branch may not be:

(1) granted a certificate of authority to transact any kind of insurance business in Indiana that is not permitted to be transacted in Indiana by a domestic company granted a certificate of authority under this title; or

(2) authorized to transact an insurance business in Indiana if the United States branch transacts, anywhere in the United States, any kind of business other than an insurance business (and business incidental to the kind of insurance business) that the United States branch is authorized to transact in Indiana.

(d) A United States branch entering the United States through Indiana or another state may not be authorized to transact an insurance business in Indiana if the United States branch fails to substantially comply with any requirement of this title that:

(1) applies to a similar domestic company that is organized after July 1, 2007; and

(2) the commissioner determines is necessary to protect the interest of the policyholders.

(e) Unless the commissioner determines that the kind of insurance is not contrary to the best interest of the citizens of Indiana, a United States branch may not transact any kind of insurance business that is not permitted to be transacted in Indiana by a similar domestic company that is organized after July 1, 2007.

(f) A United States branch may not be authorized to transact an insurance business in Indiana unless the United States branch maintains correct and complete records of the United States branch's transactions that are:

(1) open to inspection by any person who has the right to inspect the records; and

(2) maintained at the United States branch's principal office in Indiana.

Sec. 8. If the commissioner determines from a quarterly or annual statement, a trusteed surplus statement, or another report that a United States branch's trusteed surplus is less than:

(1) the minimum capital and surplus requirements; or

(2) the authorized control level risk based capital requirements;

whichever is greater, that apply to a domestic insurer granted a certificate of authority to transact the same kind of insurance business in Indiana, the commissioner may proceed under IC 27-9 against the United States branch as if the United States branch were an insurer in such condition that further transaction by the insurer of insurance business in the United States would be hazardous to the insurer's policyholders, creditors, or residents of the United States.

SECTION 21. IC 27-8-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The term "policy of accident and sickness insurance", as used in this chapter, includes any policy or contract covering one (1) or more of the kinds of insurance described in Class 1(b) or 2(a) of IC 27-1-5-1. Such policies may be on the individual basis under this section and sections 2 through 9 of this chapter, on the group basis under this section and sections 16 through 19 of this chapter, on the franchise basis under this section and section 11 of this chapter, or on a blanket basis under section 15 of this chapter and (except as otherwise expressly provided in this chapter) shall be exclusively governed by this chapter.

(b) No policy of accident and sickness insurance may be issued or delivered to any person in this state, nor may any application, rider, or endorsement be used in connection with an accident and sickness insurance policy, until a copy of the form of the policy and of the classification of risks and the premium rates, or, in the case of assessment companies, the estimated cost pertaining thereto, have been filed with **and reviewed by** the commissioner **under section 1.5 of this chapter.** This section is applicable also to assessment companies and fraternal benefit associations or societies.

~~(c) No policy of accident and sickness insurance may be issued, nor may any application, rider, or endorsement be used in connection with a policy of accident and sickness insurance, until the expiration of thirty (30) days after it has been filed under subsection (b), unless the commissioner gives his written approval to it before the expiration of the thirty (30) day period.~~

~~(d) The commissioner may, within thirty (30) days after the filing of any form under subsection (b), disapprove the form:~~

~~(1) if, in the case of an individual accident and sickness form, the benefits provided therein are unreasonable in relation to the premium charged; or~~

~~(2) if, in the case of an individual, blanket, or group accident and sickness form, it contains a provision or provisions that are unjust, unfair, inequitable, misleading, or deceptive or that encourage misrepresentation of the policy.~~

~~(e) If the commissioner notifies the insurer that filed a form that the form does not comply with this section, it is unlawful thereafter for the insurer to issue the form or use it in connection with any policy. In the notice given under this subsection, the commissioner shall specify the reasons for his disapproval and state that a hearing will be granted within twenty (20) days after request in writing by the insurer.~~

~~(f) The commissioner may at any time, after a hearing of which not less than twenty (20) days written notice has been given to the insurer, withdraw his approval of any form filed under subsection (b) on any of the grounds stated in this section. It is unlawful for the insurer to issue the form or use it in connection with any policy after the effective date of the withdrawal of approval. The notice of any hearing called under this subsection must specify the matters to be considered at the hearing, and any decision affirming disapproval or directing withdrawal of approval under this section must be in writing and must specify the reasons for the decision.~~

~~(g) Any order or decision of the commissioner under this section is subject to review under IC 4-21.5.~~

SECTION 22. IC 27-8-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. (a) This section applies to a policy of accident and sickness insurance issued on an individual, a group, a franchise, or a blanket basis, including a policy issued by an assessment company or a fraternal benefit society.**

(b) As used in this section, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

(c) As used in this section, "grossly inadequate filing" means a policy form filing:

(1) that fails to provide key information, including state specific information, regarding a product, policy, or rate; or

(2) that demonstrates an insufficient understanding of applicable legal requirements.

(d) As used in this section, "policy form" means a policy, a contract, a certificate, a rider, an endorsement, an evidence of coverage, or any amendment that is required by law to be filed with the commissioner for approval before use in Indiana.

(e) As used in this section, "type of insurance" refers to a type of coverage listed on the National Association of Insurance Commissioners Uniform Life, Accident and Health, Annuity and Credit Product Coding Matrix, or a successor document, under the heading "Continuing Care Retirement Communities", "Health", "Long Term Care", or "Medicare Supplement".

(f) Each person having a role in the filing process described in subsection (i) shall act in good faith and with due diligence in the performance of the person's duties.

(g) A policy form may not be issued or delivered in Indiana unless the policy form has been filed with and approved by the commissioner.

(h) The commissioner shall do the following:

(1) Create a document containing a list of all product filing requirements for each type of insurance, with appropriate citations to the law, administrative rule, or bulletin that specifies the requirement, including the citation for the type of insurance to which the requirement applies.

(2) Make the document described in subdivision (1) available on the department of insurance Internet site.

(3) Update the document described in subdivision (1) at least annually and not more than thirty (30) days following any change in a filing requirement.

(i) The filing process is as follows:

(1) A filer shall submit a policy form filing that:

(A) includes a copy of the document described in subsection (h);

(B) indicates the location within the policy form or supplement that relates to each requirement contained in the document described in subsection (h); and

(C) certifies that the policy form meets all requirements of state law.

(2) The commissioner shall review a policy form filing and, not more than thirty (30) days after the commissioner receives the filing under subdivision (1):

(A) approve the filing; or

(B) provide written notice of a determination:

(i) that deficiencies exist in the filing; or

(ii) that the commissioner disapproves the filing.

A written notice provided by the commissioner under clause (B) must be based only on the requirements set forth in the document described in subsection (h) and must cite the specific requirements not met by the filing. A written notice provided by the commissioner under clause (B)(i) must state the reasons for the commissioner's determination in sufficient detail to enable the filer to bring the policy form into compliance with the requirements not met by the filing.

(3) A filer may resubmit a policy form that:

(A) was determined deficient under subdivision (2) and has been amended to correct the deficiencies; or

(B) was disapproved under subdivision (2) and has been revised.

A policy form resubmitted under this subdivision must meet the requirements set forth as described in subdivision (1) and must be resubmitted not more than thirty (30) days after the filer receives the commissioner's written notice of deficiency or disapproval. If a policy form is not resubmitted within thirty (30) days after receipt of the written notice, the commissioner's determination regarding the policy form is final.

(4) The commissioner shall review a policy form filing resubmitted under subdivision (3) and, not more than thirty (30) days after the commissioner receives the resubmission:

(A) approve the resubmitted policy form; or

(B) provide written notice that the commissioner disapproves the resubmitted policy form.

A written notice of disapproval provided by the commissioner under clause (B) must be based only on the requirements set forth in the document described in subsection (h), must cite the specific requirements not met by the filing, and must state the reasons for the commissioner's determination in detail. The commissioner's approval or disapproval of a resubmitted policy form under this subdivision is final, except that the commissioner may allow the filer to resubmit a further revised policy form if the filer, in the filer's resubmission under subdivision (3), introduced new provisions or materially modified a substantive provision of the policy form. If the commissioner allows a filer to resubmit a further revised policy form under this subdivision, the filer must resubmit the further revised policy form not more than thirty (30) days after the filer receives notice under clause (B), and the commissioner shall issue a final determination on the further revised policy form not more than thirty (30) days after the commissioner receives the further revised policy form.

(5) If the commissioner disapproves a policy form filing under this subsection, the commissioner shall notify the filer, in writing, of the filer's right to a hearing as described in subsection (m). The policy form may not be disapproved unless it contains a material error or omission. At any hearing conducted under this subsection, the commissioner must prove that the policy form contains a material error or omission.

(j) Except as provided in this subsection, the commissioner may not disapprove a policy form resubmitted under subsection (i)(3) or (i)(4) for a reason other than a reason specified in the original notice of determination under subsection (i)(2)(B). The commissioner may disapprove a resubmitted policy form for a reason other than a reason specified in the original notice of determination under subsection (i)(2) if:

(1) the filer has introduced a new provision in the resubmission;

(2) the filer has materially modified a substantive provision of the policy form in the resubmission;

(3) there has been a change in requirements applying to the policy form; or

(4) there has been reviewer error and the written disapproval fails to state a specific requirement with

which the policy form does not comply.

(k) The commissioner may return a grossly inadequate filing to the filer without triggering a deadline set forth in this section.

(l) The commissioner may disapprove a policy form if:

(1) the benefits provided under the policy form are not reasonable in relation to the premium charged; or

(2) the policy form contains provisions that are unjust, unfair, inequitable, misleading, or deceptive, or that encourage misrepresentation of the policy.

(m) Upon disapproval of a filing under this section, the commissioner shall provide written notice to the filer or insurer of the right to a hearing within twenty (20) days of a request for a hearing.

(n) Unless a policy form approved under this chapter contains a material error or omission, the commissioner may not:

(1) retroactively disapprove the policy form; or

(2) examine the filer of the policy form during a routine or targeted market conduct examination for compliance with a policy form filing requirement that was not in existence at the time the policy form was filed.

SECTION 23. IC 27-8-5-2.5, AS AMENDED BY P.L.127-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. (a) As used in this section, the term "policy of accident and sickness insurance" does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy. ~~issued as an individual policy.~~

~~(5) A limited benefit health insurance policy issued as an individual policy.~~

~~(6)~~ **(5)** A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

~~(7)~~ **(6)** A policy that provides ~~a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.~~ **indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:**

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

~~(8)~~ **(7)** Worker's compensation or similar insurance.

~~(9)~~ **(8)** A student health ~~insurance policy.~~ **plan.**

(9) A supplemental plan that always pays in addition to other coverage.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

(b) The benefits provided by:

(1) an individual policy of accident and sickness insurance; or

(2) a certificate of coverage that is issued under a nonemployer based association group policy of accident and sickness insurance to an individual who is a resident of Indiana;

may not be excluded, limited, or denied for more than twelve (12) months after the effective date of the coverage because of a preexisting condition of the individual.

(c) An individual policy of accident and sickness insurance or a certificate of coverage described in subsection (b) may not define a preexisting condition, a rider, or an endorsement more restrictively than as:

(1) a condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment during the twelve (12) months immediately preceding the effective date of ~~enrollment in~~ the plan;

(2) a condition for which medical advice, diagnosis, care, or treatment was recommended or received during the twelve (12) months immediately preceding the effective date of ~~enrollment in~~ the plan; or

(3) a pregnancy existing on the effective date of ~~enrollment in~~ the plan.

(d) An insurer shall reduce the period allowed for a preexisting condition exclusion described in subsection (b) by the amount of time the individual has continuously served under a preexisting condition clause for a policy of accident and sickness insurance issued under IC 27-8-15 if the individual applies for a policy under this chapter not more than thirty (30) days after coverage under a policy of accident and sickness insurance issued under IC 27-8-15 expires.

(e) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. Notwithstanding subsections (b) and (c), an individual policy of accident and sickness insurance may contain a waiver of coverage for a specified condition and complications directly related to the specified condition if:

(1) the period for which the exemption would be in effect does not exceed two (2) years; and

(2) all of the following conditions are met:

(A) The insurer provides to the applicant before issuance of the policy a written notice explaining the waiver of coverage for the specified condition and complications directly related to the specified condition, including a specific description of each condition, complication, service, and treatment for which coverage is being waived.

(B) The:

(i) offer of coverage; and

(ii) policy;

include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition and specifying each related condition, complication, service, and treatment for which coverage is waived.

(C) The:

(i) offer of coverage; and

(ii) policy;

do not include more than two (2) waivers per individual.

(D) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.

(E) The insurer agrees to:

(i) review the underwriting basis for the waiver upon request one (1) time per year; and

(ii) remove the waiver if the insurer determines that evidence of insurability is satisfactory.

(F) The insurer discloses to the applicant that the applicant may decline the offer of coverage and apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

(G) The waiver of coverage does not apply to coverage required under state law.

(H) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.

The insurer shall require an applicant to initial the written notice provided under subdivision (2)(A) and the waiver included in the offer of coverage and in the policy under subdivision (2)(B) to acknowledge acceptance of the waiver of coverage. An offer of coverage under a policy that includes a waiver under this subsection does not preclude eligibility for an Indiana

comprehensive health insurance association policy under IC 27-8-10-5.1. This subsection expires July 1, 2007.

(f) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An insurer shall not, on the basis of a waiver contained in a policy as provided in subsection (e), deny coverage for any condition, complication, service, or treatment that is not specified as required in the:

(1) written notice under subsection (e)(2)(A); and

(2) offer of coverage and policy under subsection (e)(2)(B).

This subsection expires July 1, 2007.

(g) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An individual who is covered under a policy that includes a waiver under subsection (e) may directly appeal a denial of coverage based on the waiver by filing a request for an external grievance review under IC 27-8-29 without pursuing a grievance under IC 27-8-28. This subsection expires July 1, 2007.

(h) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. Notwithstanding subsection (e), an individual policy of accident and sickness insurance may not contain a waiver of coverage for:

(1) a mental health condition; or

(2) a developmental disability.

This subsection expires July 1, 2007.

(i) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. A waiver under this section may be applied to a policy of accident and sickness insurance only at the time the policy is issued. This subsection expires July 1, 2007.

(j) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An insurer or insurance producer shall not use this section to circumvent the guaranteed access and availability provisions of this chapter, IC 27-8-15, or the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191). This subsection expires July 1, 2007.

(k) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. A pattern or practice of violations of subsections (e) through (j) is an unfair method of competition or an unfair and deceptive act and practice in the business of insurance under IC 27-4-1-4. This subsection expires July 1, 2007.

SECTION 24. IC 27-8-5-15.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.6. (a) As used in this section, "coverage of services for a mental illness" includes the services defined under the policy of accident and sickness insurance. However, the term does not include services for the treatment of substance abuse or chemical dependency.

(b) This section applies to a policy of accident and sickness insurance that:

(1) is issued on an individual basis or a group basis;

(2) is issued, entered into, or renewed after December 31, 1999; and

(3) is issued to an employer that employs more than fifty (50) full-time employees.

(c) This section does not apply to the following:

~~(1) An insurance policy listed under IC 27-8-15-9(b).~~

~~(2)~~ **(1)** A legal business entity that has obtained an exemption under section 15.7 of this chapter.

(2) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(3) Coverage issued as a supplement to liability insurance.

(4) Worker's compensation or similar insurance.

(5) Automobile medical payment insurance.

(6) A specified disease policy.

(7) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(8) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(9) A supplemental plan that always pays in addition to other coverage.

(10) A student health plan.

(11) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

(d) A group or individual insurance policy or agreement may not permit treatment limitations or financial requirements on the coverage of services for a mental illness if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

(e) An insurer that issues a policy of accident and sickness insurance that provides coverage of services for the treatment of substance abuse and chemical dependency when the services are required in the treatment of a mental illness shall offer to provide the coverage without treatment limitations or financial requirements if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

(f) This section does not require a group or individual insurance policy or agreement to offer mental health benefits.

(g) The benefits delivered under this section may be delivered under a managed care system.

SECTION 25. IC 27-8-5-19, AS AMENDED BY P.L.127-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) As used in this chapter, "late enrollee" has the meaning set forth in 26 U.S.C. 9801(b)(3).

(b) A policy of group accident and sickness insurance may not be issued to a group that has a legal situs in Indiana unless it contains in substance:

(1) the provisions described in subsection (c); or

(2) provisions that, in the opinion of the commissioner, are:

(A) more favorable to the persons insured; or

(B) at least as favorable to the persons insured and more favorable to the policyholder;

than the provisions set forth in subsection (c).

(c) The provisions referred to in subsection (b)(1) are as follows:

(1) A provision that the policyholder is entitled to a grace period of thirty-one (31) days for the payment of any premium due except the first, during which grace period the policy will continue in force, unless the policyholder has given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder is liable to the insurer for the payment of a pro rata premium for the time the policy was in force during the grace period. A provision under this subdivision may provide that the insurer is not obligated to pay claims incurred during the grace period until the premium due is received.

(2) A provision that the validity of the policy may not be contested, except for nonpayment of premiums, after the policy has been in force for two (2) years after its date of issue, and that no statement made by a person covered under the policy relating to the person's insurability may be used in contesting the validity of the insurance with respect to which the statement was made, unless:

(A) the insurance has not been in force for a period of two (2) years or longer during the person's lifetime; or

(B) the statement is contained in a written instrument signed by the insured person.

However, a provision under this subdivision may not preclude the assertion at any time of defenses based upon a person's ineligibility for coverage under the policy or based upon other provisions in the policy.

(3) A provision that a copy of the application, if there is one, of the policyholder must be attached to the policy when issued, that all statements made by the policyholder or by the persons insured are to be deemed representations and not warranties, and that no statement made by any person insured may be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the insured person or, in the event of death or incapacity of the insured person, to the insured person's beneficiary or personal representative.

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of the person's coverage.

(5) A provision specifying any additional exclusions or limitations applicable under the policy with respect to a disease or physical condition of a person that existed before the effective date of the person's coverage under the policy and that is not otherwise excluded from the person's coverage by name or specific description effective on the date of the person's loss. An exclusion or limitation that must be specified in a provision under this subdivision:

(A) may apply only to a disease or physical condition for which medical advice, diagnosis, care, or treatment was received by the person or recommended to the person during the six (6) months before the ~~enrollment~~ **effective** date of the person's coverage; and

(B) may not apply to a loss incurred or disability beginning after the earlier of:

(i) the end of a continuous period of twelve (12) months beginning on or after the ~~enrollment~~ **effective** date of the person's coverage; or

(ii) the end of a continuous period of eighteen (18) months beginning on the ~~enrollment~~ **effective** date of the person's coverage if the person is a late enrollee.

This subdivision applies only to group policies of accident and sickness insurance other than those described in section 2.5(a)(1) through 2.5(a)(8) and 2.5(b)(2) of this chapter.

(6) A provision specifying any additional exclusions or limitations applicable under the policy with respect to a disease or physical condition of a person that existed before the effective date of the person's coverage under the policy. An exclusion or limitation that must be specified in a provision under this subdivision:

(A) may apply only to a disease or physical condition for which medical advice or treatment was received by the person during a period of three hundred sixty-five (365) days before the effective date of the person's coverage; and

(B) may not apply to a loss incurred or disability beginning after the earlier of the following:

(i) The end of a continuous period of three hundred sixty-five (365) days, beginning on or after the effective date of the person's coverage, during which the person did not receive medical advice or treatment in connection with the disease or physical condition.

(ii) The end of the two (2) year period beginning on the effective date of the person's coverage.

This subdivision applies only to group policies of accident and sickness insurance described in section 2.5(a)(1) through 2.5(a)(8) of this chapter.

(7) If premiums or benefits under the policy vary according to a person's age, a provision specifying an equitable adjustment of:

(A) premiums;

(B) benefits; or

(C) both premiums and benefits;

to be made if the age of a covered person has been misstated. A provision under this subdivision must contain a clear statement of the method of adjustment to be used.

(8) A provision that the insurer will issue to the policyholder, for delivery to each person insured, a certificate, in electronic or paper form, setting forth a statement that:

(A) explains the insurance protection to which the person insured is entitled;

(B) indicates to whom the insurance benefits are payable; and

(C) explains any family member's or dependent's coverage under the policy.

The provision must specify that the certificate will be provided in paper form upon the request of the insured.

(9) A provision stating that written notice of a claim must be given to the insurer within twenty (20) days after the occurrence or commencement of any loss covered by the policy, but that a failure to give notice within the twenty (20) day period does not invalidate or reduce any claim if it can be shown that it was not reasonably possible to give notice within that period and that notice was given as soon as was reasonably possible.

(10) A provision stating that:

(A) the insurer will furnish to the person making a claim, or to the policyholder for delivery to the person making a claim, forms usually furnished by the insurer for filing proof of loss; and

(B) if the forms are not furnished within fifteen (15) days after the insurer received notice of a claim, the person making the claim will be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which the claim is made.

(11) A provision stating that:

(A) in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within ninety (90) days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at reasonable intervals as may be required by the insurer;

(B) in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within ninety (90) days after the date of the loss; and

(C) the failure to furnish proof within the time required under clause (A) or (B) does not invalidate or reduce any claim if it was not reasonably possible to furnish proof within that time, and if proof is furnished as soon as reasonably possible but (except in case of the absence of legal capacity of the claimant) no later than one (1) year from the time proof is otherwise required under the policy.

(12) A provision that:

(A) all benefits payable under the policy (other than benefits for loss of time) will be paid:

(i) not more than forty-five (45) days after the insurer's (as defined in IC 27-8-5.7-3) receipt of written proof of loss if the claim is filed by the policyholder; or

(ii) in accordance with IC 27-8-5.7 **if the claim is**

filed by the provider (as defined in IC 27-8-5.7-4); and

(B) subject to due proof of loss, all accrued benefits under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of the period for which the insurer is liable will be paid as soon as possible after receipt of the proof of loss.

(13) A provision that benefits for loss of life of the person insured are payable to the beneficiary designated by the person insured. However, if the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms. In either case, payment of benefits for loss of life is subject to the provisions of the policy if no designated or specified beneficiary is living at the death of the person insured. All other benefits of the policy are payable to the person insured. The policy may also provide that if any benefit is payable to the estate of a person or to a person who is a minor or otherwise not competent to give a valid release, the insurer may pay the benefit, up to an amount of five thousand dollars ($5,000), to any relative by blood or connection by marriage of the person who is deemed by the insurer to be equitably entitled to the benefit.

(14) A provision that the insurer, **at the insurer's expense,** has the right and must be allowed the opportunity to:

(A) examine the person of the individual for whom a claim is made under the policy when and as often as the insurer reasonably requires during the pendency of the claim; and

(B) conduct an autopsy in case of death if it is not prohibited by law.

(15) A provision that no action at law or in equity may be brought to recover on the policy less than sixty (60) days after proof of loss is filed in accordance with the requirements of the policy and that no action may be brought at all more than three (3) years after the expiration of the time within which proof of loss is required by the policy.

(16) In the case of a policy insuring debtors, a provision that the insurer will furnish to the policyholder, for delivery to each debtor insured under the policy, a certificate of insurance describing the coverage and specifying that the benefits payable will first be applied to reduce or extinguish the indebtedness.

(17) If the policy provides that hospital or medical expense coverage of a dependent child of a group member terminates upon the child's attainment of the limiting age for dependent children set forth in the policy, a provision that the child's attainment of the limiting age does not terminate the hospital and medical coverage of the child while the child is:

(A) incapable of self-sustaining employment because of mental retardation or mental or physical disability; and

(B) chiefly dependent upon the group member for support and maintenance.

A provision under this subdivision may require that proof of the child's incapacity and dependency be furnished to the insurer by the group member within one hundred twenty (120) days of the child's attainment of the limiting age and, subsequently, at reasonable intervals during the two (2) years following the child's attainment of the limiting age. The policy may not require proof more than once per year in the time more than two (2) years after the child's attainment of the limiting age. This subdivision does not require an insurer to provide coverage to a mentally retarded or mentally or physically disabled child who does not satisfy the requirements of the group policy as to evidence of insurability or other requirements for coverage under the policy to take effect. In any case, the terms of the policy apply with regard to the coverage or exclusion from coverage of the child.

(18) A provision that complies with the group portability and guaranteed renewability provisions of the federal Health Insurance Portability and Accountability Act of 1996 (P.L.104-191).

(d) Subsection (c)(5), (c)(8), and (c)(13) do not apply to policies insuring the lives of debtors. The standard provisions required under section 3(a) of this chapter for individual accident and sickness insurance policies do not apply to group accident and sickness insurance policies.

(e) If any policy provision required under subsection (c) is in whole or in part inapplicable to or inconsistent with the coverage provided by an insurer under a particular form of policy, the insurer, with the approval of the commissioner, shall delete the provision from the policy or modify the provision in such a manner as to make it consistent with the coverage provided by the policy.

(f) An insurer that issues a policy described in this section shall include in the insurer's enrollment materials information concerning the manner in which an individual insured under the policy may:

(1) obtain a certificate described in subsection (c)(8); and

(2) request the certificate in paper form.

SECTION 26. IC 27-8-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) All individual accident and health insurance policies, other than those issued pursuant to direct response solicitation, must have a notice prominently printed on the first page of the policy stating in substance that the policyholder has the right to return the policy:

(1) except as provided in subdivision (2), within ten (10) days of its delivery; **or**

(2) if the policy is a travel accident insurance policy, until the earlier of:

(A) thirty (30) days after the policy is delivered; or

(B) the date of departure;

and to have the premium refunded if, after examination of the policy, the insured person is not satisfied for any reason.

(b) All accident and health insurance policies issued pursuant to a direct response solicitation must have a notice prominently printed on the first page stating in substance that the policyholder has the right to return the policy:

(1) except as provided in subdivision (2), within thirty (30) days of its delivery; **or**

(2) if the policy is a travel accident insurance policy, until the earlier of:

(A) thirty (30) days after the policy is delivered; or

(B) the date of departure;

and to have the premium refunded if, after examination of the policy, the insured person is not satisfied for any reason.

(c) Notwithstanding subsection (b), a short term health insurance policy that is written for a period of less than sixty-one (61) days and issued under a direct response solicitation must have a notice prominently printed on the first page stating in substance that the policyholder has the right to return the policy within ten (10) days after the policy's delivery and to have the premium refunded if, after examination of the policy, the insured person is not satisfied for any reason.

SECTION 27. IC 27-8-5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) As used in this section, "accident and sickness insurance policy" means an insurance policy that provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a), and is issued on a group basis. The term does not include the following:

(1) Accident only, credit, dental, vision, ~~Medicare,~~

Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy.

~~(5) A limited benefit health insurance policy.~~

~~(6)~~ **(5)** A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

~~(7)~~ **(6)** A policy that provides ~~a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.~~ **indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:**

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

~~(8)~~ **(7)** Worker's compensation or similar insurance.

~~(9)~~ **(8)** A student health ~~insurance policy.~~ **plan.**

(9) A supplemental plan that always pays in addition to other coverage.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

(b) As used in this section, "insured" means a child or an individual with a disability who is entitled to coverage under an accident and sickness insurance policy.

(c) As used in this section, "child" means an individual who is less than nineteen (19) years of age.

(d) As used in this section, "individual with a disability" means an individual:

(1) with a physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual; and

(2) who:

(A) has a record of; or

(B) is regarded as;

having an impairment described in subdivision (1).

(e) A policy of accident and sickness insurance must include coverage for anesthesia and hospital charges for dental care for an insured if the mental or physical condition of the insured requires dental treatment to be rendered in a hospital or an ambulatory outpatient surgical center. The Indications for General Anesthesia, as published in the reference manual of the American Academy of Pediatric Dentistry, are the utilization standards for determining whether performing dental procedures necessary to treat the insured's condition under general anesthesia constitutes appropriate treatment.

(f) An insurer that issues a policy of accident and sickness insurance may:

(1) require prior authorization for hospitalization or treatment in an ambulatory outpatient surgical center for dental care procedures in the same manner that prior authorization is required for hospitalization or treatment of other covered medical conditions; and

(2) restrict coverage to include only procedures performed by a licensed dentist who has privileges at the hospital or ambulatory outpatient surgical center.

(g) This section does not apply to treatment rendered for temporal mandibular joint disorders (TMJ).

SECTION 28. IC 27-8-5.6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** As used in this chapter, the term "accident and sickness insurance" means any policy or contract covering one (1) or more of the kinds of insurance described in classes 1(b) or 2(a) of IC 1971, 27-1-5-1, as governed by IC 1971, 27-8-5.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(8) A supplemental plan that always pays in addition to other coverage.

(9) A student health plan.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 29. IC 27-8-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. ~~(a) As used in this section, "compensation" includes pecuniary and nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, the following:~~

~~(1) Bonuses.~~

~~(2) Gifts.~~

~~(3) Prizes.~~

~~(4) Awards.~~

~~(5) Finders fees.~~

~~(b)~~ **(a)** An insurer or other entity that provides a commission ~~or other compensation~~ to an insurance producer or other representative for the sale of a long term care insurance policy may not violate the following conditions:

(1) The amount of the first year commission ~~or first year compensation~~ for selling or servicing the policy may not exceed two hundred percent (200%) of the amount of the commission ~~or other compensation~~ paid in the second year.

(2) The amount of commission ~~or other compensation~~ provided in years after the second year must be equal to the amount provided in the second year.

(3) A commission ~~or other compensation~~ must be provided each year for at least five (5) years after the first year.

~~(c)~~ **(b)** If an existing long term care policy or certificate is replaced, the insurer or other entity that issues the replacement policy may not provide, and its insurance producer may not accept, ~~compensation~~ **a commission** in an amount greater than the renewal ~~compensation~~ **commission** payable by the replacing insurer on renewal policies, unless the benefits of the replacement policy or certificate are clearly and substantially greater than the benefits under the replaced policy or certificate.

~~(d)~~ **(c)** This section does not apply to the following:

(1) Life insurance policies and certificates.

(2) A policy or certificate that is sponsored by an employer for the benefit of:

(A) the employer's employees; or

(B) the employer's employees and their dependents.

SECTION 30. IC 27-8-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** As used in this chapter, "accident and sickness insurance policy" means an insurance policy that:

(1) provides one (1) or more of the types of insurance

described in IC 27-1-5-1, classes 1(b) and 2(a); and

(2) is issued on a group basis.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy.

(6)A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(8) A supplemental plan that always pays in addition to other coverage.

(9) A student health plan.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 31. IC 27-8-14.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that:

(1) provides one (1) or more of the types of insurance described in IC 27-1-5-1, classes 1(b) and 2(a); and

(2) is issued on a group basis.

(b) As used in this chapter, "accident and sickness insurance policy" does not include **the following:**

~~(1) accident only;~~

~~(2) credit;~~

~~(3) dental;~~

~~(4) vision;~~

~~(5) Medicare supplement;~~

~~(6) long term care; or~~

~~(7) disability income;~~

~~insurance.~~

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(8) A supplemental plan that always pays in addition to other coverage.

(9) A student health plan.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 32. IC 27-8-14.2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that provides one (1) or more of the types of insurance described in IC 27-1-5-1, classes 1(b) and 2(a).

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy. ~~issued as an individual policy.~~

~~(6) A limited benefit health insurance policy issued as an individual policy.~~

~~(7)~~ **(6)** A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

~~(8)~~ **(7)** A policy that provides ~~a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.~~ **indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:**

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(8) A supplemental plan that always pays in addition to other coverage.

(9) A student health plan.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 33. IC 27-8-14.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** As used in this chapter, "health insurance plan" means any:

(1) hospital or medical expense incurred policy or certificate;

(2) hospital or medical service plan contract; or

(3) health maintenance organization subscriber contract;

provided to an insured.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy. ~~issued as an individual policy.~~

~~(6) A limited benefit health insurance policy issued as an individual policy.~~

~~(7)~~ **(6)** A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

~~(8)~~ **(7)** A policy that provides ~~a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.~~ **indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:**

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(8) A supplemental plan that always pays in addition to other coverage.

(9) A student health plan.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 34. IC 27-8-14.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that:

(1) provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a); and

(2) is issued on a group basis.

(b) "Accident and sickness insurance policy" does not include ~~accident only, credit, dental, vision, Medicare supplement, long-term care, or disability income insurance.~~ **the following:**

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(8) A supplemental plan that always pays in addition to other coverage.

(9) A student health plan.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 35. IC 27-8-14.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that:

(1) provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a); and

(2) is issued on a group basis.

(b) "Accident and sickness insurance policy" does not include ~~a policy providing accident only, credit, dental, vision, Medicare supplement, long-term care, or disability income insurance.~~ **the following:**

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(8) A supplemental plan that always pays in addition to other coverage.

(9) A student health plan.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 36. IC 27-8-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A claim review agent may not conduct medical claims review concerning health care services delivered to an enrollee in Indiana unless the claim review agent holds a certificate of registration issued by the department under this chapter.

(b) To obtain a certificate of registration under this chapter, a claim review agent must submit to the department an application containing the following:

(1) The name, address, telephone number, and normal business hours of the claim review agent.

(2) The name and telephone number of a person that the department may contact concerning the information in the application.

(3) Documentation necessary for the department to determine that the claim review agent is capable of satisfying the minimum requirements set forth in section 7 of this chapter.

(c) An application submitted under this section must be:

(1) signed and verified by the applicant; and

(2) accompanied by an application fee in the amount established under subsection (d).

The commissioner shall deposit an application fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.

(d) The department shall set the amount of the application fee required by subsection (c) and section 6(a) of this chapter in the rules adopted under section 14 of this chapter. The amount may not be more than is reasonably necessary to generate revenue sufficient to offset the costs incurred by the department in carrying out the department's responsibilities under this chapter.

(e) The department shall issue a certificate of registration to a claim review agent that satisfies the requirements of this section.

SECTION 37. IC 27-8-16-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.2. (a) A person may not act as a claim review consultant concerning health care services delivered to an enrollee in Indiana unless the person holds a certificate of registration issued by the department under this chapter.

(b) To obtain a certificate of registration under this chapter, a person must submit to the department an application containing the following:

(1) The name, address, telephone number, and normal business hours of the person.

(2) The name and telephone number of a person that the department may contact concerning the information in the application.

(3) Documentation necessary for the department to determine that the person is capable of satisfying the minimum requirements set forth in this chapter.

(c) An application submitted under this section must be:

(1) signed and verified by the applicant; and

(2) accompanied by an application fee in the amount established under subsection (d).

The commissioner shall deposit an application fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.

(d) The department shall set the amount of the application fee required by subsection (c) and section 6(a) of this chapter in the rules adopted under section 14 of this chapter. The amount may not be more than is reasonably necessary to generate revenue sufficient to offset the costs incurred by the department in carrying out the department's responsibilities under this chapter.

(e) The department shall issue a certificate of registration to a claim review consultant that satisfies the requirements of this section.

SECTION 38. IC 27-8-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) To remain in effect, a certificate of registration issued under this chapter must be renewed on June 30 of each year. To obtain the renewal of a certificate of registration, a claim review agent or a claim review consultant must submit an application to the commissioner. The application must be accompanied by a registration fee in the amount set under section 5(d) of this chapter. **The commissioner shall deposit a registration fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.**

(b) A certificate of registration issued under this chapter may not be transferred unless the department determines that the person to which the certificate of registration is to be transferred has satisfied the requirements of this chapter.

(c) If there is a material change in any of the information set forth in an application submitted under this chapter, the claim review agent or claim review consultant that submitted the application shall notify the department of the change in writing not more than thirty (30) days after the change.

SECTION 39. IC 27-8-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A utilization review agent may not conduct utilization review in Indiana unless the utilization review agent holds a certificate of registration issued by the department under this chapter.

(b) To obtain a certificate of registration under this chapter, a utilization review agent must submit to the department an application containing the following:

(1) The name, address, telephone number, and normal business hours of the utilization review agent.

(2) The name and telephone number of a person that the department may contact concerning the information in the application.

(3) Documentation necessary for the department to determine that the utilization review agent is capable of satisfying the minimum requirements set forth in section 11 of this chapter.

(c) An application submitted under this section must be:

(1) signed and verified by the applicant; and

(2) accompanied by an application fee in the amount established under subsection (d).

The commissioner shall deposit an application fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.

(d) The department shall set the amount of the application fee required by subsection (c) and section 10(a) of this chapter in the rules adopted under section 20 of this chapter. The amount may not be more than is reasonably necessary to generate revenue sufficient to offset the costs incurred by the department in carrying out its responsibilities under this chapter.

(e) The department shall issue a certificate of registration to a utilization review agent that satisfies the requirements of this section.

SECTION 40. IC 27-8-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) To remain in effect, a certificate of registration issued under this chapter must be renewed on June 30 of each year. To obtain the renewal of a certificate of registration, a utilization review agent must submit an application to the commissioner. The application must be accompanied by a registration fee in the amount set under section 9(d) of this chapter. **The commissioner shall deposit a registration fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.**

(b) A certificate of registration issued under this chapter may not be transferred unless the department determines that the entity to whom the certificate is to be transferred has satisfied the requirements of this chapter.

(c) If there is a material change in any of the information set forth in an application submitted under this chapter, the utilization review agent that submitted the application shall notify the department of the change in writing within thirty (30) days after the change.

SECTION 41. IC 27-8-24.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** As used in this chapter, "accident and sickness insurance policy" ~~has the meaning set forth in IC 27-8-5-27(a).~~ **means an insurance policy that provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a), and is issued on a group basis.**

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(8) A supplemental plan that always pays in addition to other coverage.

(9) A student health plan.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 42. IC 27-8-29-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15.5. Upon the request of a covered individual who is notified under section 15(d) of this chapter that the independent review organization has made a determination, the independent review organization shall provide to the covered individual all information reasonably necessary to enable the covered individual to understand the:**

(1) effect of the determination on the covered individual; and

(2) manner in which the insurer may be expected to respond to the determination.

SECTION 43. IC 27-13-10.1-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. Upon the request of an enrollee who is notified under section 4(c) of this chapter that the independent review organization has made a determination, the independent review organization shall provide to the enrollee all information reasonably necessary to enable the enrollee to understand the:**

(1) effect of the determination on the enrollee; and

(2) manner in which the health maintenance organization may be expected to respond to the determination.

SECTION 44. IC 27-13-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. Each health maintenance organization subject to this article shall pay to the commissioner **for deposit into the department of insurance fund established by IC 27-1-3-28** the following fees:

(1) Three hundred fifty dollars ($350) for filing:
(A) an application for a certificate of authority; or
(B) an application for an amendment to a certificate of authority.
(2) Fifty dollars ($50) for filing each annual report.

SECTION 45. IC 27-13-34-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) A limited service health maintenance organization subject to this chapter shall pay to the commissioner **for deposit into the department of insurance fund established by IC 27-1-3-28** the following fees:

(1) For filing an application for a certificate of authority or an amendment to an application, three hundred fifty dollars ($350).
(2) For filing each annual report, fifty dollars ($50).

(b) In addition to the fees required by subsection (a), a limited service health maintenance organization subject to this chapter must pay the fees required by IC 27-1-3-15.

SECTION 46. IC 36-8-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The department and a trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries. However, a department and a trustee may not establish or modify a retirement plan after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any benefits of the employee beneficiaries set forth in any retirement plan that was in effect on January 1, 1989.

(b) The normal retirement age may be earlier but not later than the age of seventy (70). However, the sheriff may retire an employee who is otherwise eligible for retirement if the board finds that the employee is not physically or mentally capable of performing the employee's duties.

(c) Joint contributions shall be made to the trust fund:
(1) either by:
(A) the department through a general appropriation provided to the department;
(B) a line item appropriation directly to the trust fund; or
(C) both; and
(2) by an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. However, the employer may pay all or a part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for plans established or modifications adopted after June 30, 1989, unless the establishment or modification is approved by the county fiscal body.

(d) For a county not having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed six percent (6%) of the employee beneficiary's average monthly wages. For a county having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.

(e) The minimum annual contribution by the department must be sufficient, as determined by the pension engineers, to prevent deterioration in the actuarial status of the trust fund during that year. If the department fails to make minimum contributions for three (3) successive years, the pension trust terminates and the trust fund shall be liquidated.

(f) If during liquidation all expenses of the pension trust are paid, adequate provision must be made for continuing pension payments to retired persons. Each employee beneficiary is entitled to receive the net amount paid into the trust fund from the employee beneficiary's wages, and any remaining sum shall be equitably divided among employee beneficiaries in proportion to the net amount paid from their wages into the trust fund.

(g) If a person ceases to be an employee beneficiary because of death, disability, unemployment, retirement, or other reason, the person, the person's beneficiary, or the person's estate is entitled to receive at least the net amount paid into the trust fund from the person's wages, either in a lump sum or monthly installments not less than the person's pension amount.

(h) If an employee beneficiary is retired for old age, the employee beneficiary is entitled to receive a monthly income in the proper amount of the employee beneficiary's pension during the employee beneficiary's lifetime.

(i) To be entitled to the full amount of the employee beneficiary's pension classification, an employee beneficiary must have contributed at least twenty (20) years of service to the department before retirement. Otherwise, the employee beneficiary is entitled to receive a pension proportional to the length of the employee beneficiary's service.

(j) This subsection does not apply to a county that adopts an ordinance under section 12.1 of this chapter. For an employee beneficiary who retires before January 1, 1985, a monthly pension may not exceed by more than twenty dollars ($20) one-half (½) the amount of the average monthly wage received during the highest paid five (5) years before retirement. However, in counties where the fiscal body approves the increases, the maximum monthly pension for an employee beneficiary who retires after December 31, 1984, may be increased by no more or no less than two percent (2%) of that average monthly wage for each year of service over twenty (20) years to a maximum of seventy-four percent (74%) of that average monthly wage plus twenty dollars ($20). For the purposes of determining the amount of an increase in the maximum monthly pension approved by the fiscal body for an employee beneficiary who retires after December 31, 1984, the fiscal body may determine that the employee beneficiary's years of service include the years of service with the sheriff's department that occurred before the effective date of the pension trust. For an employee beneficiary who retires after June 30, 1996, the average monthly wage used to determine the employee beneficiary's pension benefits may not exceed the monthly minimum salary that a full-time prosecuting attorney was entitled to be paid by the state at the time the employee beneficiary retires.

(k) The trust fund may not be commingled with other funds, except as provided in this chapter, and may be invested only in accordance with statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

(l) The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

(m) The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the plan.

(n) Within ninety (90) days after the close of each fiscal year, the trustee, with the aid of the pension engineers, shall prepare and file an annual report with the department. ~~and the state insurance department.~~ The report must include the following:

(1) Schedule 1. Receipts and disbursements.
(2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.
(3) Schedule 3. List of terminations, showing the cause and amount of refund.
(4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.
(5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(o) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

SECTION 47. IC 16-39-9-3 IS REPEALED [EFFECTIVE JULY 1, 2007].

SECTION 48. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.**

(b) As used in this SECTION, "committee" refers to the interim study committee to define "health insurance" established by subsection (c).

(c) There is established the interim study committee to define "health insurance". The committee shall only study and make recommendations to the general assembly concerning the manner in which accident and sickness insurance policies, self-insured plans, and health maintenance organization contracts that provide coverage for health care services are defined in the Indiana Code.

(d) The committee consists of the following members:

(1) Four (4) members of the house of representatives, to be appointed by the speaker of the house of representatives, not more than two (2) of whom may represent the same political party.

(2) Four (4) members of the senate, to be appointed by the president pro tempore of the senate, not more than two (2) of whom may represent the same political party.

(e) The committee shall operate under the policies governing study committees adopted by the legislative council.

(f) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including final reports.

(g) The committee shall submit a final report to the legislative council not later than October 31, 2007.

(h) This SECTION expires December 31, 2007.

SECTION 49. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) As used in this SECTION, "program" refers to the health care management program established under subsection (d).

(c) As used in this SECTION, "recipient" means a Medicaid recipient under IC 12-15.

(d) The office may work with one (1) or more health care providers to establish and implement a demonstration project for a health care management program under which the health care providers provide health care services to recipients. If a demonstration project is established and implemented, the program must allow the office to do the following:

(1) Offer to recipients who currently receive health care services from the health care providers the opportunity to continue to receive Medicaid services provided solely by the health care providers as part of the demonstration project. The offer must be extended to a number of recipients that is sufficiently large to result in a percentage of recipients accepting the offer to provide meaningful data to guide the establishment and implementation of the program under subdivision (2). A recipient is not required to participate in the demonstration project.

(2) Establish and implement a program of health care management modeled on the United States Department of Veterans Affairs Quality Enhancement Research Initiative, including use of payment incentives for:

(A) individual health care providers; and

(B) administrators;

of the health care providers with which the office works under this SECTION to reward the achievement of objectives established for the program.

(e) The office and the health care providers described in subsection (d) shall study the impact of implementing the program under subsection (d)(2), including the impact the program has on the:

(1) quality; and

(2) cost;

of health care provided to recipients.

(f) The office shall consult with the Regenstrief Institute for Health Care or a comparable institution in developing, implementing, and studying the program.

(g) The office shall apply to the United States Department of Health and Human Services for any amendment to the state Medicaid plan or demonstration waiver that is needed to implement this SECTION. A health care provider described in subsection (d) shall assist the office in requesting the amendment or demonstration waiver and, if the amendment or waiver is approved, establishing and implementing the amendment or waiver.

(h) The office may not implement the amendment or waiver until the office files an affidavit with the governor attesting that the amendment or waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not more than five (5) days after the office is notified that the amendment or waiver is approved.

(i) If the office receives approval for the amendment or waiver under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (h), the office shall implement the amendment or waiver not more than sixty (60) days after the governor receives the affidavit.

(j) The office may adopt rules under IC 4-22-2 to implement this SECTION.

(k) The office shall, before July 1 of each year, report to the legislative council in an electronic format under IC 5-14-6 concerning a demonstration project established and implemented under this SECTION.

(l) Notwithstanding subsections (d) through (k), if the office determines that establishing and implementing a demonstration project under this SECTION is not feasible, the office shall report the determination of infeasibility to the legislative council in an electronic format under IC 5-14-6 not later than June 30, 2008.

(m) This SECTION expires January 1, 2013.

SECTION 50. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "insurer" includes the following:**

(1) An insurer (as defined in IC 27-8-11-1).

(2) An administrator licensed under IC 27-1-25.

(3) A health maintenance organization (as defined in IC 27-13-1-19).

(4) A person that pays or administers claims on behalf of an insurer or a health maintenance organization.

(b) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(c) As used in this SECTION, "small employer" has the meaning set forth in IC 27-8-15-14.

(d) Before June 1, 2008, the office may develop, with one (1) or more organizations that provide health care services, a pilot project through which small employers that are unable to afford to offer health care coverage for employees of the small employers may obtain access to affordable health care coverage for the employees.

(e) The office may adopt rules under IC 4-22-2 to implement this SECTION.

(f) If the pilot project results in the availability of health care coverage to small employer groups through the pilot project at a premium rate that is at least twenty percent (20%) less than a comparable health benefit plan available to small employer groups in Indiana, an insurer may not enter into or enforce an agreement with the organization with which the pilot project is developed that contains a

provision that:

(1) prohibits, or grants the insurer an option to prohibit, the organization from contracting with another insurer to accept lower payment for health care services than the payment specified in the agreement;

(2) requires, or grants the insurer an option to require, the organization to accept a lower payment from the insurer if the organization agrees with another insurer to accept lower payment for health care services;

(3) requires, or grants the insurer an option to require, termination, or renegotiation of the agreement if the organization agrees with another insurer to accept lower payment for health care services; or

(4) requires the organization to disclose the organization's reimbursement rates under contracts with other insurers.

(g) The office shall report to the legislative council in an electronic format under IC 5-14-6 concerning the development and implementation of a pilot project under this SECTION before December 1, 2008.

(h) Notwithstanding subsections (e) through (g), if the office determines that developing a pilot project under this SECTION is not feasible, the office shall report the determination of infeasibility to the legislative council in an electronic format under IC 5-14-6 not later than December 1, 2008.

(i) This SECTION expires December 31, 2013.

SECTION 51. **An emergency is declared for this act.**

(Reference is to EHB 1452 as reprinted April 3, 2007.)

KLINKER	PAUL
RIPLEY	SIMPSON
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1722–1; filed April 26, 2007, at 4:48 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1722 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-3.1-27-9.5, AS AMENDED BY P.L.122-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 9.5. **Except as provided in IC 6-3.1-28-11(c),** the total amount of credits allowed under:

(1) section 8 of this chapter;

(2) section 9 of this chapter; and

(3) IC 6-3.1-28;

may not exceed fifty million dollars ($50,000,000) for all taxpayers and all taxable years beginning after December 31, 2004. The corporation shall determine the maximum allowable amount for each type of credit, which must be at least four million dollars ($4,000,000) for each type of credit.

SECTION 2. IC 6-3.1-28-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) If the amount of the credit determined under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry over the excess to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit. **A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this chapter.**

SECTION 3. IC 6-3.1-28-11, AS AMENDED BY P.L.122-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 11. **(a) As used in this section, "cellulosic ethanol" means ethanol derived solely from lignocellulosic or hemicellulosic matter.**

(b) The corporation shall determine the maximum amount of credits that a taxpayer (or if the person producing the ethanol is a pass through entity, the shareholders, partners, or members of the pass through entity) is eligible to receive under this section. The total amount of credits allowed a taxpayer (or, if the person producing the ethanol is a pass through entity, the shareholders, partners, or members of the pass through entity) under this chapter may not exceed a total of the following amounts for all taxable years:

(1) Two million dollars ($2,000,000) in the case of a taxpayer who produces at least forty million (40,000,000) but less than sixty million (60,000,000) gallons of **grain** ethanol in a taxable year.

(2) Three million dollars ($3,000,000) in the case of a taxpayer who produces at least sixty million (60,000,000) gallons of **grain** ethanol in a taxable year.

(3) Twenty million dollars ($20,000,000) for all taxpayers for all taxable years, in the case of tax credits for a taxpayer who produces at least twenty million (20,000,000) gallons of cellulosic ethanol in a taxable year.

(c) The total amount of tax credits allowed under this chapter for a taxpayer who produces at least twenty million (20,000,000) gallons of cellulosic ethanol is not subject to the maximum amount of tax credits imposed by IC 6-3.1-27-9.5.

(d) A taxpayer who is eligible for a credit under this chapter as a result of producing at least twenty million (20,000,000) gallons of cellulosic ethanol in a taxable year may apply the credit only against the state tax liability attributable to business activity taking place at the Indiana facility at which the cellulosic ethanol was produced.

SECTION 4. IC 6-3.1-29-6, AS ADDED BY P.L.191-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this chapter, "integrated coal gasification powerplant" means a facility that satisfies all the following requirements:

(1) The facility is located in Indiana and is a newly constructed energy generating plant.

(2) The facility converts coal into synthesis gas that can be used as a fuel to generate energy **or as a substitute for natural gas.**

(3) The facility uses the synthesis gas as a fuel to generate electric energy **or produces synthesis gas that can be used as a substitute for natural gas.**

(4) The facility is dedicated primarily to **production of electricity or gas for use by energy utilities** serving Indiana retail electric **or gas** utility consumers.

SECTION 5. IC 6-3.1-29-15, AS AMENDED BY P.L.122-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment in an integrated coal gasification powerplant is equal to the sum of the following:

(1) Ten percent (10%) of the taxpayer's qualified investment for the first five hundred million dollars ($500,000,000) invested.

(2) Five percent (5%) of the amount of the taxpayer's qualified investment that exceeds five hundred million

dollars ($500,000,000) only if the facility is dedicated primarily to serving Indiana retail electric **or gas** utility consumers.

(b) Subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment in a fluidized bed combustion technology is equal to the sum of the following:

(1) Seven percent (7%) of the taxpayer's qualified investment for the first five hundred million dollars ($500,000,000) invested.

(2) Three percent (3%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars ($500,000,000).

SECTION 6. IC 6-3.1-29-19, AS AMENDED BY P.L.122-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The maximum tax credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.

(5) If the facility is an integrated coal gasification powerplant, a requirement that the taxpayer shall pay an average wage to its employees at the integrated coal gasification powerplant, other than highly compensated employees, in each taxable year that a tax credit is available, that equals at least one hundred twenty-five percent (125%) of the average county wage in the county in which the integrated coal gasification powerplant is located.

(6) For a project involving a qualified investment in ~~a~~ **an integrated** coal gasification powerplant, a requirement that the taxpayer will maintain at the location where the qualified investment is made, during the term of the tax credit, a total payroll that is at least equal to the payroll that existed on the date that the taxpayer placed the integrated coal gasification powerplant into service.

(7) A requirement that:

(A) one hundred percent (100%) of the coal used:

(i) at the integrated coal gasification powerplant, for a project involving a qualified investment in an integrated coal gasification powerplant; or

(ii) as fuel in a fluidized bed combustion unit, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is dedicated primarily to serving Indiana retail electric utility consumers;

must be Indiana coal; or

(B) seventy-five percent (75%) of the coal used as fuel in a fluidized bed combustion unit must be Indiana coal, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is not dedicated primarily to serving Indiana retail electric utility consumers.

(8) A requirement that the taxpayer obtain from the commission a determination under IC 8-1-8.5-2 that public convenience and necessity require, or will require:

(A) the construction of the taxpayer's integrated coal gasification powerplant, in the case of a project involving a qualified investment in an integrated coal gasification powerplant; or

(B) the installation of the taxpayer's fluidized bed combustion unit, in the case of a project involving a qualified investment in a fluidized bed combustion technology.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit awarded under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer.

SECTION 7. IC 6-3.1-29-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20.5. (a) Subject to subsection (c), part or all of the credit to which a taxpayer is entitled under section 15 of this chapter may be assigned by the taxpayer to one (1) or more utilities that have entered into a contract that:**

(1) is approved by the Indiana utility regulatory commission;

(2) provides for the purchase of electricity or substitute natural gas (as defined in IC 8-1-2-42.1) by the utility from the taxpayer; and

(3) expressly allows the assignment of tax credits under this section.

A tax credit assigned to a utility under this section must be applied against the utility's state tax liability in the order set forth in section 14(b) of this chapter.

(b) Notwithstanding section 16 of this chapter, any part of a taxpayer's credit under section 15 of this chapter that is assigned by the taxpayer under this section must be taken in twenty (20) annual installments, beginning with the year in which the taxpayer places into service an integrated coal gasification powerplant or a fluidized bed combustion technology.

(c) The part of a taxpayer's credit under section 15 of this chapter that may be assigned by the taxpayer with respect to any one (1) taxable year is subject to the following:

(1) The total amount of the taxpayer's credit under section 15 of this chapter that may be assigned by the taxpayer with respect to the taxable year may not exceed the product of:

(A) the total credit amount to which the taxpayer is entitled under section 15 of this chapter, divided by twenty (20); multiplied by

(B) the percentage of Indiana coal used in the taxpayer's integrated coal gasification powerplant or fluidized bed combustion technology in the taxable year for which the annual installment of the credit is allowed.

(2) The part of the amount determined under subdivision (1) that may be assigned to any one (1) utility with respect to the taxable year may not exceed the greater of:

(A) the utility's total state tax liability for the taxable year, multiplied by twenty-five percent (25%); or

(B) the utility's total utility receipts tax liability for the taxable year.

(d) Any part of the taxpayer's credit under section 15 of this chapter that is assigned to one (1) or more utilities by a taxpayer under this section with respect to a taxable year may not be claimed by the taxpayer or the taxpayer's shareholders, partners, or members. However, any part of the credit to which the taxpayer is entitled under section 15 of this chapter and that is not assigned by the taxpayer with respect to the taxable year may be taken and applied by the taxpayer, or the taxpayer's shareholders, partners, or members, in accordance with sections 16 and 20 of this chapter.

SECTION 8. IC 6-3.1-31.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS

[EFFECTIVE JANUARY 1, 2008]:

Chapter 31.5. Energy Savings Tax Credit

Sec. 1. This chapter applies only to taxable years beginning after December 31, 2008.

Sec. 2. As used in this chapter, "energy star heating and cooling equipment" means heating and cooling equipment that is rated for energy efficiency under the federal energy star program and manufactured in the United States.

Sec. 3. As used in this chapter, "energy star program" refers to the program established by Section 324A of the federal Energy Policy and Conservation Act.

Sec. 4. As used in this chapter, "heating and cooling equipment" means:

(1) a furnace;

(2) a water heater;

(3) central air conditioning;

(4) a room air conditioner; and

(5) a programmable thermostat.

Sec. 5. As used in this chapter, "pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

Sec. 6. As used in this chapter, "small business" has the meaning set forth in IC 4-4-5.2-3.

Sec. 7. As used in this chapter, "state tax liability" means the taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 27-1-18-2 (the insurance premiums tax); and

(3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

Sec. 8. As used in this chapter, "taxpayer" means:

(1) an individual filing a single return;

(2) a married couple filing a joint return; or

(3) a small business;

that has any state tax liability.

Sec. 9. Subject to section 12 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year equal to the lesser of the following:

(1) Twenty percent (20%) of the amount of expenditures for energy star heating and cooling equipment incurred by the taxpayer during the taxable year.

(2) One hundred dollars ($100).

Sec. 10. (a) If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the credit may be applied, an individual who is a shareholder, partner, or member of the pass through entity is entitled to a credit equal to:

(1) the credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributable income to which the individual is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same expenditures for energy star heating and cooling equipment.

Sec. 11. The amount of a credit claimed under this chapter may not exceed a qualified taxpayer's state tax liability. A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

Sec. 12. A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this chapter.

Sec. 13. The total amount of tax credits allowed under this chapter may not exceed one million dollars ($1,000,000) in a state fiscal year.

Sec. 14. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 9. IC 8-1-2-42.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 42.1. (a) As used in this section, "substitute natural gas" means pipeline quality gas produced by a facility in Indiana that uses a gasification process to convert coal from the geological formation known as the Illinois Basin into a gas capable of being used:**

(1) by a utility to supply gas utility service to end use consumers in Indiana; or

(2) as a fuel used by a utility to produce electric power to supply electric utility service to end use consumers in Indiana.

(b) As used in this section, "customer choice program" means a program under which certain residential and commercial gas consumers located in the service area of a gas utility may:

(1) elect to purchase their gas supply from a provider other than the gas utility in the service area; and

(2) receive transportation service from the gas utility in the service area for the delivery of the gas purchased under subdivision (1) to the consumer's premises.

(c) Subject to IC 8-1-8.9 and notwithstanding any other law, if the commission approves a contract for the purchase of substitute natural gas, or electricity generated in connection with the production of substitute natural gas, by a utility, the commission shall allow the utility to recover the following costs on a timely basis throughout the term of the contract:

(1) All costs incurred in connection with and resulting from the utility's purchases under the contract, including the cost of the substitute natural gas and related costs for generation, transmission, transportation, and storage services.

(2) All costs the utility incurs in obtaining replacement gas if the seller fails to deliver substitute natural gas required to be delivered under the contract, including the price of the gas, and related transportation, storage, and hedging costs, to the extent those costs are not paid by the seller.

(3) Upon petition by the utility, any other costs the commission finds are reasonably necessary in association with the contract.

(d) Any costs recovered under subsection (c):

(1) are in addition to the recovery of other costs; and

(2) shall be made through an adjustment under section 42 of this chapter or another rate adjustment mechanism that allows for comparable timely cost recovery.

(e) If a customer choice program is implemented, expanded, or renewed for a utility during the term of a contract approved by the commission under subsection (c) that has the effect of reducing the utility's sales volumes, a condition of the authorization of that program must be the proportionate assignment of the gas or electric utility's substitute natural gas purchase obligation to the service providers in the customer choice program.

(f) Regardless of changes in market conditions or other circumstances, the commission may not take any action during the term of a contract approved under this section that adversely affects a utility's right to timely recover costs

under this section or to otherwise fully recover such costs.

(g) With respect to utilities that are parties to a contract for the purchase of substitute natural gas approved by the commission under this section, the state covenants and agrees that as long as the contract is in effect the state will not limit, alter, or impair a utility's right to recover costs as provided in this section. Notwithstanding any other law, neither the commission nor any other state agency, political subdivision, or governmental unit may take any action that would have the effect of limiting, altering, or impairing a utility's right to recover costs as provided in this section.

SECTION 10. IC 8-1-2-86.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 86.5. **(a) As used in this section, "four (4) mile area" means the area within four (4) miles of a municipality's corporate boundaries.**

(b) Except as provided in subsection (c), the commission, after notice and hearing, may, by order, determine territorial disputes between all water utilities.

(c) This subsection applies only to a municipality:

(1) having a population of less than seven thousand five hundred (7,500); and

(2) that, as of January 1, 2007, has adopted an ordinance exercising the power to regulate the furnishing of water to the public granted by IC 36-9-2-14 within a four (4) mile area.

The commission may not determine a territorial dispute within a four (4) mile area unless the territorial dispute concerns a geographic area located in more than one (1) four (4) mile area.

SECTION 11. IC 8-1-8.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The general assembly makes the following findings:

(1) Growth of Indiana's population and economic base has created a need for new energy **production or** generating facilities in Indiana.

(2) The development of a robust and diverse portfolio of energy **production or** generating capacity, including **coal gasification and** the use of renewable energy resources, is needed if Indiana is to continue to be successful in attracting new businesses and jobs.

(3) Indiana has considerable natural resources that are currently underutilized and could support development of new energy **production or** generating facilities, **including coal gasification facilities,** at an affordable price.

(4) Certain regions of the state, such as southern Indiana, could benefit greatly from new employment opportunities created by development of new energy **production or** generating facilities utilizing the plentiful supply of coal from the geological formation known as the Illinois basin.

(5) Technology can be deployed that allows high sulfur coal from the geological formation known as the Illinois Basin to be burned **or gasified** efficiently while meeting strict state and federal air quality limitations. Specifically, the state should encourage the use of advanced clean coal technology, such as coal gasification.

(6) It is in the public interest for the state to encourage the construction of new energy **production or** generating facilities that increase the in-state capacity to provide for current and anticipated energy demand at a competitive price.

(b) The purpose of this chapter is to enhance Indiana's energy security and reliability by ensuring all of the following:

(1) Indiana's energy **production or** generating capacity continues to be adequate to provide for Indiana's current and future energy needs, including the support of the state's economic development efforts.

(2) The vast and underutilized coal resources of the Illinois Basin are used as a fuel source for new energy **production or** generating facilities.

(3) The electric transmission ~~system~~ **and gas transportation systems** within Indiana ~~is~~ **are** upgraded to distribute additional amounts of electricity **and gas** more efficiently.

(4) Jobs are created as new energy **production or** generating facilities are built in regions throughout Indiana.

SECTION 12. IC 8-1-8.8-2, AS AMENDED BY P.L.174-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "clean coal and energy projects" means any of the following:

(1) Any of the following projects:

(A) Projects at new energy **production or** generating facilities that employ the use of clean coal technology and that ~~are~~ ~~fueled~~ **produce energy, including substitute natural gas,** primarily ~~by~~ **from** coal or gases, derived from coal from the geological formation known as the Illinois Basin.

(B) Projects to provide advanced technologies that reduce regulated air emissions from existing energy **production or** generating plants that are fueled primarily by coal or gases from coal from the ~~geologic~~ **geological** formation known as the Illinois Basin, such as flue gas desulfurization and selective catalytic reduction equipment.

(C) Projects to provide electric transmission facilities to serve a new energy **production or** generating facility.

(D) Projects that produce substitute natural gas from Indiana coal by construction and operation of a coal gasification facility.

(2) Projects to develop alternative energy sources, including renewable energy projects **and coal gasification facilities.**

(3) The purchase of fuels produced by a coal gasification facility.

(4) Projects described in subdivisions (1) through (3) that use coal bed methane.

SECTION 13. IC 8-1-8.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy **production or** generating facility and directly or indirectly reduces **or avoids** airborne emissions of sulfur, mercury, or nitrogen oxides or other regulated air emissions associated with the combustion or use of coal; and

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding **or loan guaranty** under ~~its~~ **an** Innovative Clean Coal Technology **or loan guaranty** program **under the Energy Policy Act of 2005, or any successor program,** and is finally approved for such funding **or loan guaranty** on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

SECTION 14. IC 8-1-8.8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "coal gasification facility" means a facility in Indiana that uses a manufacturing process that converts coal into a clean gas that can be used as a fuel to generate energy **or substitute natural gas.**

SECTION 15. IC 8-1-8.8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this chapter, "eligible business" means an energy utility (as

defined in IC 8-1-2.5-2) **or owner of a coal gasification facility** that:

(1) proposes to construct or repower a new energy **production or** generating facility;

(2) proposes to construct or repower a project described in section 2(1) or 2(2) of this chapter;

(3) undertakes a project to develop alternative energy sources, including renewable energy projects; or

(4) purchases fuels produced by a coal gasification facility.

SECTION 16. IC 8-1-8.8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) As used in this chapter, "new energy generating facility" refers to a **generation or coal gasification** facility that satisfies all of the following:

(1) The facility ~~is fueled~~ **produces energy** primarily ~~by~~ **from** coal or gases from coal from the ~~geologic~~ **geological** formation known as the Illinois Basin.

(2) The facility is a:

(A) newly constructed or newly repowered energy generation plant; or

(B) newly constructed generation capacity expansion at an existing facility;

dedicated primarily to serving Indiana retail customers.

(3) The repowering, construction, or expansion of the facility was begun by an Indiana utility after July 1, 2002.

(4) Except for a facility that is a clean coal and energy project under section 2(2) of this chapter, the facility has an aggregate rated electric generating capacity of at least one hundred (100) megawatts for all units at one (1) site or a generating capacity of at least four hundred thousand (400,000) pounds per hour of steam.

(b) The term includes the transmission lines, **gas transportation facilities,** and associated equipment employed specifically to serve a new energy generating **or coal gasification** facility.

SECTION 17. IC 8-1-8.8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. As used in this chapter, "qualified utility system property" means any new energy generating **or coal gasification** facility used, or to be used, in whole or in part, ~~on a utility system~~ **by an energy utility** to provide retail energy service (as defined in IC 8-1-2.5-3) regardless of whether that service is provided under IC 8-1-2.5 or another provision of this article.

SECTION 18. IC 8-1-8.8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) As used in this chapter, "renewable energy resources" means alternative sources of renewable energy, including the following:

(1) Energy from wind.

(2) Solar energy.

(3) Photovoltaic cells and panels.

(4) Dedicated crops grown for energy production.

(5) Organic waste biomass, **including any of the following organic matter that is available on a renewable basis:**

(A) Agricultural crops.

(B) Agricultural wastes and residues.

(C) Wood and wood wastes, including the following:

(i) Wood residues.

(ii) Forest thinnings.

(iii) Mill residue wood.

(iv) Waste from clean construction and demolition.

(D) Animal wastes.

(E) Aquatic plants.

(6) Hydropower from existing dams.

(7) Fuel cells.

(8) Energy from waste to energy facilities producing steam not used for the production of electricity.

(b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of the following:

~~(1) Waste wood.~~

~~(2)~~ **(1)** Tires.

~~(3)~~ **(2)** General household, institutional, commercial, industrial lunchroom, office, or landscape waste.

~~(4) Construction or demolition debris.~~

(c) The term excludes treated or painted lumber.

SECTION 19. IC 8-1-8.8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The commission shall provide financial incentives to eligible businesses for new energy **producing and** generating facilities in the form of timely recovery of the costs incurred in connection with the construction, repowering, expansion, operation, or maintenance of the facilities.

(b) An eligible business seeking authority to timely recover the costs described in subsection (a) must apply to the commission for approval of a rate adjustment mechanism in the manner determined by the commission.

(c) An application must include the following:

(1) A schedule for the completion of construction, repowering, or expansion of the new energy generating **or coal gasification** facility for which rate relief is sought.

(2) Copies of the most recent integrated resource plan filed with the commission, **if applicable.**

(3) The amount of capital investment by the eligible business in the new energy generating **or coal gasification** facility.

(4) Other information the commission considers necessary.

(d) The commission shall allow an eligible business to recover the costs associated with qualified utility system property if the eligible business provides substantial documentation that the expected costs associated with qualified utility system property and the schedule for incurring those costs are reasonable and necessary.

(e) The commission shall allow an eligible business to recover the costs associated with the purchase of fuels produced by a coal gasification facility if the eligible business provides substantial documentation that the costs associated with the purchase are reasonable and necessary.

(f) A retail rate adjustment mechanism proposed by an eligible business under this section may be based on actual or forecasted data. If forecast data is used, the retail rate adjustment mechanism must contain a reconciliation mechanism to correct for any variance between the forecasted costs and the actual costs.

SECTION 20. IC 8-1-8.8-13, AS AMENDED BY P.L.1-2006, SECTION 151, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. An eligible business shall file a monthly report with the lieutenant governor stating the following information:

(1) The amount of Illinois Basin coal, if any, purchased during the previous month for use in a new energy generating **or coal gasification** facility.

(2) The amount of any fuel produced by a coal gasification facility and purchased by the eligible business during the previous month.

(3) Any other information the lieutenant governor may reasonably require.

SECTION 21. IC 8-1-8.9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.9. Financing of Substitute Natural Gas Costs

Sec. 1. (a) As used in this chapter, "assignee" means any individual, corporation, or other legal entity to which an SNG property interest is transferred.

(b) The term includes an assignee of a person described in subsection (a).

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 3. As used in this chapter, "energy utility" has the meaning set forth in IC 8-1-2.5-2.

Sec. 4. As used in this chapter, "financing entity" means a person that provides:

(1) equity financing; or

(2) debt financing;

that is secured by an SNG property interest.

Sec. 5. As used in this chapter, "qualified contract" means a contract with a term of at least thirty (30) years for the sale of substitute natural gas to an energy utility.

Sec. 6. As used in this chapter, "qualified cost" means any cost incurred by an energy utility in purchasing substitute natural gas under a qualified contract.

Sec. 7. As used in this chapter, "qualified order" means a final and irrevocable order that:

(1) is issued by the commission; and

(2) approves a qualified contract adopted in accordance with this chapter and IC 8-1-2-42.1.

Sec. 8. As used in this chapter, "substitute natural gas" or "SNG" has the meaning set forth in IC 8-1-2-42.1(a).

Sec. 9. As used in this chapter, "SNG property interest" means the right, title, and interest that:

(1) are held by an energy utility or its assignee;

(2) are created by a qualified order; and

(3) entitle the energy utility or its assignee to recover qualified costs under IC 8-1-2-42.1.

Sec. 10. As used in this chapter, "SNG seller" means any individual, corporation, or other legal entity that engages in the production and sale of substitute natural gas.

Sec. 11. (a) Notwithstanding any other law, the commission may, in accordance with this chapter and IC 8-1-2-42.1, issue a qualified order that:

(1) approves the terms of a qualified contract; and

(2) authorizes the recovery of qualified costs by an energy utility from its customers.

(b) A qualified order issued under this section may not be:

(1) rescinded;

(2) nullified; or

(3) modified;

in such a manner that reduces or otherwise impairs the value of an SNG property interest.

Sec. 12. (a) An SNG property interest, including any right to future purchases of substitute natural gas during the term of a qualified contract, constitutes a present property right.

(b) Qualified costs recovered by an energy utility under a qualified order constitute proceeds of only the SNG property interest that is created by the qualified order.

(c) If the commission issues a qualified order under section 11 of this chapter, the state covenants and agrees, for the benefit of the energy utility and any assignee or financing entity involved, that the state will not take or permit any action that would:

(1) reduce or otherwise impair the value of the SNG property interest created by the qualified order; or

(2) limit, alter, or impair:

(A) the qualified order;

(B) the SNG property interest created by the qualified order; or

(C) qualified costs that are:

(i) imposed on and collected by the energy utility; and

(ii) remitted to the SNG seller;

under the terms of the qualified contract;

until the qualified contract has been performed in full.

Sec. 13. (a) An energy utility may assign an SNG property interest to an assignee, including:

(1) another party to the qualified contract; or

(2) a financing entity.

An assignee may in turn assign an SNG property interest to a financing entity that provides financing to the assignee.

(b) An assignment to a financing entity under this section may be:

(1) an absolute assignment of the SNG property interest; or

(2) an assignment of the SNG property interest as collateral for an obligation owed to the financing entity.

(c) An assignee under this section may enforce the SNG property interest by all applicable legal and equitable means.

(d) Any amounts collected by an energy utility in connection with the sale, transfer, or disposition of substitute natural gas under a qualified contract that forms the basis of an SNG property interest assigned under this section constitute the property of the assignee. Pending the transfer of the SNG property interest to the assignee, the amounts described in this subsection shall be:

(1) segregated by the energy utility; and

(2) held in trust for the benefit of the assignee;

subject to the terms of the qualified contract that forms the basis of the SNG property interest that is being assigned.

Sec. 14. The interests of an assignee in:

(1) an SNG property interest transferred to the assignee under section 13 of this chapter; and

(2) any revenues or collections arising from the SNG property interest transferred;

are not subject to setoff by the energy utility that transferred the SNG property interest, or by any other person, in connection with any bankruptcy proceeding involving the energy utility.

Sec. 15. (a) If an agreement by an energy utility or an assignee to assign an SNG property interest expressly states that the assignment is a sale or is otherwise an absolute transfer:

(1) the resulting transaction:

(A) is a true sale; and

(B) is not a secured transaction; and

(2) title, both legal and equitable, passes to the person to which the SNG property interest is assigned.

(b) A transaction resulting from an agreement described in subsection (a) is a true sale regardless of whether:

(1) the assignee has recourse against the assignor; or

(2) the agreement provides for any of the following:

(A) The assignor's retention of an equity interest in the SNG property interest transferred.

(B) Continuing obligations of the energy utility under the qualified contract, including the obligation of the energy utility to serve as the collector of qualified costs.

(C) The treatment of the transfer as a financing for tax, financial reporting, or other purposes.

Sec. 16. (a) An SNG property interest does not constitute an account or a general intangible under IC 26-1-9.1-102. The creation, granting, perfection, and enforcement of liens and security interests in SNG property interests are governed by this chapter and not by IC 26-1-9.1.

(b) A valid and enforceable lien and security interest in an SNG property interest may be created only by the execution and delivery of a security agreement with a financing entity in connection with the issuance of indebtedness. The security interest attaches automatically from the time that value is received for the indebtedness secured by the SNG property interest and, upon perfection through the filing of notice with the secretary of state:

(1) constitutes a continuously perfected lien and security interest in the SNG property interest and all proceeds of the SNG property interest, whether or not accrued;

(2) has priority in the order of its filing; and

(3) takes precedence over any subsequent judicial lien or other creditor's lien.

If notice is filed with the secretary of state not later than ten

(10) days after value is received for the indebtedness, the security interest is perfected retroactive to the date the value was received. If notice is not filed with the secretary of state within ten (10) days after value is received for the indebtedness, the security interest is perfected as of the date of filing.

(c) Transfer of an SNG property interest to an assignee is perfected against all third parties, including subsequent judicial or other lien creditors, upon:

(1) the delivery of transfer documents to the assignee; and

(2) the filing of notice with the secretary of state in accordance with subsection (b).

However, if notice of the transfer is not filed with the secretary of state within ten (10) days after the delivery of the transfer documentation, the transfer of the SNG property interest is not perfected against third parties until the notice is filed.

(d) The priority of a lien and security interest under this section is not impaired by either of the following:

(1) A later modification of the qualified order creating the SNG property interest being transferred.

(2) The commingling of other funds with funds collected in connection with a qualified contract. Any other security interest that may apply to funds collected in connection with a qualified contract terminates when the funds are transferred to a segregated account for the benefit of the assignee or a financing entity. If an SNG property interest has been transferred to an assignee, any proceeds from the SNG property interest shall be held in trust for the assignee.

(e) If a default or termination occurs in connection with a financing secured by an SNG property interest, the financing entity or its representative may foreclose on or otherwise enforce its lien and security interest in the SNG property interest as if the financing entity were a secured party under IC 26-1-9.1. Amounts arising from the qualified contract that is the basis of the SNG property interest shall be transferred to a separate account for the financing entity's benefit and are subject to the financing entity's security interest and lien.

Sec. 17. An assignee or a financing party is not considered an energy utility solely by virtue of its participation in any transaction described in this chapter.

Sec. 18. Any entity that becomes a successor to an energy utility as the result of:

(1) any bankruptcy, reorganization, or other insolvency proceeding;

(2) any merger, sale, or transfer involving the energy utility; or

(3) the operation of law;

or for any other reason, shall perform and satisfy any obligations of the energy utility incurred under this chapter in the same manner and to the same extent as the energy utility would have been obligated to perform, including the obligation to pay to an assignee any funds collected by the energy utility in connection with the SNG property interest assigned to the assignee.

Sec. 19. An SNG seller that is an assignee may contract with the energy utility, in the qualified contract or in another contract, for the performance of services related to the sale of substitute natural gas under the qualified contract, including:

(1) the transportation and distribution of substitute natural gas; and

(2) billing, collection, and other related services;

according to terms and conditions that reasonably compensate the energy utility for its services and adequately secure payment to the SNG seller.

Sec. 20. If an energy utility makes a true sale of an SNG property interest to an SNG seller under section 15 of this chapter, the SNG seller:

(1) retains title to all substitute natural gas distributed by the energy utility to the energy utility's retail end use customers;

(2) is entitled to all amounts collected by the energy utility from its retail end use customers for the distribution of the substitute natural gas, subject to the terms of the qualified contract; and

(3) has the same rights to payments made by the energy utility's retail end use customers as does the energy utility that provides the substitute natural gas to those customers.

SECTION 22. [EFFECTIVE UPON PASSAGE] **The general assembly finds the following:**

(1) The development of coal gasification facilities in Indiana that would use local coal resources for the production of substitute natural gas is in the public interest for purposes of:

(A) reducing the reliance of Indiana energy utilities on gas imports;

(B) mitigating price and supply risk;

(C) improving price stability; and

(D) promoting economic development and job creation.

(2) Coal gasification is encouraged by federal policies intended to increase the energy independence of the United States, including through the availability of tax incentives and loan guarantees.

(3) Indiana has the necessary resources and infrastructure suitable for development of coal gasification facilities.

(4) The receipt of federal incentives for the development, construction, and financing of new coal gasification facilities in Indiana will be enhanced by Indiana energy utilities entering into long term contracts for the purchase of substitute natural gas produced by such facilities.

(5) It is necessary to allow Indiana energy utilities to recover, through rate adjustments for the utility's customers, costs incurred from entering into supply contracts for substitute natural gas in order to promote the creation of such contracts without causing Indiana energy utilities to incur undue risk.

SECTION 23. [EFFECTIVE JANUARY 1, 2008] **IC 6-3.1-28-11, as amended by this act, applies to taxable years beginning after December 31, 2007.**

SECTION 24. **An emergency is declared for this act.**

(Reference is to EHB 1722 as reprinted April 4, 2007.)

STILWELL	HERSHMAN
LUTZ	HUME
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1731–1; filed April 26, 2007, at 4:49 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1731 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Page 5, after line 31, begin a new paragraph and insert:

"SECTION 9. IC 36-8-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies

to a county ~~having.~~ **that has:**

(1) a consolidated city; ~~or~~

(2) a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); **or**

(3) adopted an ordinance providing for the county to be governed by this chapter.

However, sections 9.5, 15, 16, 17, and 18 of this chapter apply only to a county having a consolidated city.

SECTION 10. IC 36-8-15-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) This subsection applies to a county ~~not having a consolidated city.~~ **that has a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).** For the purpose of raising money to fund the operation of the district, the county fiscal body may impose, for property taxes first due and payable during each year after the adoption of an ordinance establishing the district, an ad valorem property tax levy on property within the district. The property tax rate for that levy may not exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation.

(b) This subsection applies to a county having a consolidated city. The county fiscal body may elect to fund the operation of the district from part of the certified distribution, if any, that the county is to receive during a particular calendar year under IC 6-3.5-6-17. To make such an election, the county fiscal body must adopt an ordinance before September 1 of the immediately preceding calendar year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to fund the operation of the district. If the county fiscal body adopts such an ordinance, it shall immediately send a copy of the ordinance to the county auditor.

(c) Subject to subsections (d), (e), and (f), if an ordinance or resolution is adopted changing the territory covered by the district or the number of public agencies served by the district, the local government tax control board shall, for property taxes first due and payable during the year after the adoption of the ordinance, adjust the maximum permissible ad valorem property tax levy limits of the district and the units participating in the district.

(d) If a unit by ordinance or resolution joins the district or elects to have its public safety agencies served by the district, the local government tax control board shall reduce the maximum permissible ad valorem property tax levy of the unit for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amount budgeted by the unit for public safety communication services in the year in which the ordinance was adopted. If such an ordinance or resolution is adopted, the district shall refer its proposed budget, ad valorem property tax levy, and property tax rate for the following year to the board, which shall review and set the budget, levy, and rate as though the district were covered by IC 6-1.1-18.5-7.

(e) If a unit by ordinance or resolution withdraws from the district or rescinds its election to have its public safety agencies served by the district, the local government tax control board shall reduce the maximum permissible ad valorem property tax levy of the district for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amounts being levied by the district within that unit. If such an ordinance or resolution is adopted, the unit shall refer its proposed budget, ad valorem property tax levy, and property tax rate for public safety communication services to the board, which shall review and set the budget, levy, and rate as though the unit were covered by IC 6-1.1-18.5-7.

(f) The adjustments provided for in subsections (c), (d), and (e) do not apply to a district or unit located in a particular county if the county fiscal body of that county does not impose an ad valorem property tax levy under subsection (a) to fund the operation of the district.

(g) A county that has adopted an ordinance under section 1(3) of this chapter may not impose an ad valorem property tax levy on property within the district to fund the operation or implementation of the district.".

(Reference is to EHB 1731 as reprinted March 21, 2007.)

GIA QUINTA	C. LAWSON
WOLKINS	LANANE
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 171–1; filed April 26, 2007, at 5:22 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 171 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 27-4-1-4, AS AMENDED BY P.L.1-2006, SECTION 487, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 4. **(a)** The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the

business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or insurance producer thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed insurance producer thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, an insurance producer, or a solicitor duly licensed under the laws of this state, but such broker, insurance producer, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or IC 27-8-5-19.2.

(27) Violating IC 27-2-21 concerning use of credit information.

(28) Violating IC 27-4-9-3 concerning recommendations to ~~senior~~ consumers.

(29) Engaging in dishonest or predatory insurance practices in marketing or sales of insurance to members of the United States Armed Forces as:

(A) described in the federal Military Personnel Financial Services Protection Act, P.L.109-290; or

(B) defined in rules adopted under subsection (b).

(b) Except with respect to federal insurance programs under Subchapter III of Chapter 19 of Title 38 of the United States Code, the commissioner may, consistent with the federal Military Personnel Financial Services Protection Act (P.L.109-290), adopt rules under IC 4-22-2 to:

(1) define; and

(2) while the members are on a United States military installation or elsewhere in Indiana, protect members of the United States Armed Forces from;

dishonest or predatory insurance practices.

SECTION 2. IC 27-4-9-2, AS ADDED BY P.L.138-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 2. As used in this chapter, ~~"senior~~ "consumer" means an individual who ~~is at least sixty-five (65) years of age.~~ **receives a recommendation to purchase or exchange an annuity that results in the recommended purchase or exchange.**

SECTION 3. IC 27-4-9-3, AS ADDED BY P.L.138-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. (a) An insurance producer, or an insurer in a case in which an insurance producer is not involved, shall not recommend to a ~~senior~~ consumer the:

(1) purchase of an annuity; or

(2) exchange of an annuity that results in another insurance transaction;

that is unsuitable for the ~~senior~~ consumer.

(b) A determination regarding whether a purchase or an exchange under subsection (a) is unsuitable for a ~~senior~~ consumer must be made:

(1) based on the facts disclosed by the ~~senior~~ consumer concerning the ~~senior~~ consumer's:

(A) investments and other insurance products; and

(B) financial situation and needs; and

(2) according to the rule adopted under section 4 of this chapter.

SECTION 4. IC 27-4-9-4, AS ADDED BY P.L.138-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 4. **(a)** The department shall adopt ~~a rule~~ **rules** under IC 4-22-2 to ~~establish a method for making determinations as to whether a purchase or an exchange described in section 3 of this chapter is unsuitable for a senior consumer.~~ **implement this chapter.**

(b) The rules adopted under subsection (a) must set forth the duties that apply to an insurer or an insurance producer in determining whether reasonable grounds exist to believe that a recommendation to purchase or exchange an annuity is suitable for a consumer to whom the recommendation is made based on the facts disclosed by the consumer concerning the consumer's investments, other insurance products, and financial situation and needs.

(Reference is to ESB 171 as printed April 3, 2007.)

DELPH	GIA QUINTA
SIMPSON	RIPLEY
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 345-2007 because it conflicts with SEA 526-2007 without properly recognizing the existence of SEA 526-2007, has had Engrossed Senate Bill 345-2007 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 345-2007 be corrected as follows:

Page 2, line 37, delete "AS ADDED BY P.L.1-2005, SECTION" and insert "AS AMENDED BY SEA 526-2007, SECTION 223,".

Page 2, line 38, delete "16,".

Page 2, line 40, delete "IC 20-12-1-10" and insert "~~IC 21-43-3)~~".

Page 2, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 5. IC 21-43-1-6, AS ADDED BY SEA 526-2007, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. "Program":

~~(1) for purposes of IC 21-43-3, refers to a postsecondary level technical education program:~~

~~(A) offered by a state educational institution;~~

~~(B) approved by the commission for higher education; and~~

~~(C) of less than a baccalaureate degree;~~

~~(2)~~ **(1)** for purposes of IC 21-43-4, refers to the postsecondary enrollment program established under IC 21-43-4;

~~(3)~~ **(2)** for purposes of IC 21-43-5, refers to the double up for college program established under IC 21-43-5;

~~(4)~~ **(3)** for purposes of IC 21-43-6, refers to the high school fast track to college program offered to qualified individuals under IC 21-43-6;

~~(5)~~ **(4)** for purposes of IC 21-43-7, refers to the high school fast track to college program offered to qualified individuals under IC 21-43-7; and

~~(6)~~ **(5)** for purposes of IC 21-43-8, refers to the high school fast track to college program offered to qualified individuals under IC 21-43-8.".

Page 3, line 25, delete "AS ADDED BY P.L.1-2005," and insert "AS AMENDED BY SEA 526-2007, SECTION 304,".

Page 3, line 26, delete "SECTION 44,".

Page 3, line 39, delete "IC 20-12-1-10" and insert "~~IC 21-43-3~~".

Page 4, line 8, after "IC 20-12-1-10;" insert "IC 21-43-1-7; IC 21-43-1-8; IC 21-43-1-10; IC 21-43-3;".

Renumber all SECTIONS consecutively.

(Reference is to ESB 345 as printed April 6, 2007.)

PELATH, Chair
WHETSTONE, R.M.M.
CHENEY, Sponsor

Report adopted.

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1546 and that the House now concur in the Senate amendments to said bill.

GIA QUINTA

Roll Call 590: yeas 90, nays 0. Motion prevailed.

MOTIONS TO DISSENT FROM SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the Motion to Concur on Engrossed House Bill 1774 filed April 25, 2007 be withdrawn from further consideration by the House and I move that the House dissent from the Senate amendments to Engrossed House Bill 1774 and that the Speaker appoint a committee to confer with a like committee from the Senate and report back to the House.

VAN HAAFTEN

Motion prevailed.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee reports may be eligible for consideration after April 11, 2007: Engrossed Senate Bills 157–1, 192–1, 220–1, and 329–1 and Engrossed House Bills 1067–1, 1457–1, and 1663–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report for Engrossed Senate Bills 157–1, 192–1, 220–1, and 329–1 and Engrossed House Bills 1067–1, 1457–1, and 1663–1 are eligible for consideration after April 11, 2007

PELATH

Motion prevailed.

Engrossed Senate Bill 157–1

The conference committee report was reread. Roll Call 591: yeas 91, nays 2. Report adopted.

Engrossed Senate Bill 192–1

The conference committee report was reread. Roll Call 592: yeas 90, nays 2. Report adopted.

Engrossed Senate Bill 220–1

The conference committee report was reread. Roll Call 593: yeas 94, nays 0. Report adopted.

Engrossed Senate Bill 329–1

The conference committee report was reread. Roll Call 594: yeas 94, nays 0. Report adopted.

Representative V. Smith, who had been excused, was present.

Engrossed House Bill 1067–1

The conference committee report was reread. Roll Call 595: yeas 94, nays 0. Report adopted.

Engrossed House Bill 1457–1

The conference committee report was reread. Roll Call 596: yeas 95, nays 0. Report adopted.

Engrossed House Bill 1663–1

The conference committee report was reread. Representative Porter was excused from voting, pursuant to House Rule 46. Roll Call 597: yeas 94, nays 0. Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 23 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bills 104–1 and 232–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 23 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bills 104–1 and 232–1.

PELATH, Chair

Motion prevailed.

Engrossed Senate Bill 104–1

The conference committee report was reread. Roll Call 598: yeas 95, nays 0. Report adopted.

Engrossed Senate Bill 232–1

The conference committee report was reread. Roll Call 599: yeas 95, nays 0. Report adopted.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 105

The Speaker handed down Senate Concurrent Resolution 105, sponsored by Representatives Avery, VanHaaften, Crouch, Hoy, and Denbo:

A CONCURRENT RESOLUTION to honor Jim Brown upon his retirement as President and General Manager of Casino Aztar Evansville.

Whereas, Jim Brown has served the casino industry in Indiana in various leadership positions, including overseeing the Casino Association of Indiana.. He has been the President and General Manager of Casino Aztar Evansville since the corporation arrived in Indiana in 1993;

Whereas, Jim Brown has demonstrated how effective corporate stewardship and commitment to family, employees, community and social responsibility can be accomplished on a daily basis over the course of a career;

Whereas, Jim Brown is a graduate of Indiana University and a distinguished citizen of Evansville. He attributes the success of his business and his community to a extraordinary team effort; and

Whereas, Jim Brown will step down as President and General Manager of Casino Aztar Evansville to spend more time with his family. His retirement creates a void in the community, as evidenced by the outpouring of tributes to him from employees and the local media alike: Therefore,

Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly honors Jim Brown on his retirement from Casino Aztar Evansville and wishes him well in his future endeavors.

SECTION 2. The Secretary of the Senate is directed to transmit a copy of this resolution to Jim Brown and his family.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 107

The Speaker handed down Senate Concurrent Resolution 107, sponsored by Representatives Austin, Duncan, Tincher and Lutz:

A CONCURRENT RESOLUTION urging the establishment of an interim study committee to study the issue of vehicle crashes involving commercial motor vehicles.

Whereas, Indiana's location in the heartland of the United States and as the Crossroads of America has led to a large amount of commercial motor vehicle traffic through the state;

Whereas, As a consequence of this upturn in commercial vehicle traffic, a significant number of serious vehicle crashes involving large commercial vehicles have occurred recently;

Whereas, Many of these commercial vehicle crashes have resulted in death or serious bodily injury to persons in Indiana;

Whereas, This upturn of crashes involving commercial vehicles has become a threat to the health and safety of the motoring public in Indiana and appropriate measures to reduce these crashes are necessary; and

Whereas, The issue of reducing crashes involving commercial motor vehicles requires more in-depth study, which can be accomplished during the interim: Therefore,

Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:

SECTION 1. That the legislative council is urged to establish in interim study committee to study the issue of vehicle crashes involving commercial motor vehicles.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

OTHER BUSINESS ON THE SPEAKER'S TABLE

On the motion of Representative Austin, the House adjourned at 6:10 p.m., this twenty-sixth day of April, 2007, until Friday, April 27, 2007, at 10:00 a.m.

B. PATRICK BAUER
Speaker of the House of Representatives

CLINTON McKAY
Principal Clerk of the House of Representatives